Groveland Community Services District

SPECIAL MEETING OF THE BOARD OF DIRECTORS
District Office, 18966 Ferretti Road
Groveland, CA 95321
(209) 962-7161 www.gcsd.org

SPECIAL MEETING AGENDA
July 20, 2020
10:00 a.m.

LOCATION: TELECONFERENCE - SEE BELOW
IMPORTANT NOTICE REGARDING COVID-19 AND TELECONFERENCED MEETINGS:

Based on the mandates by the Governor's in Executive Order 33-20 and the County Public Health Officer to shelter in place and the guidance from the CDC, to minimize the spread of the coronavirus, please note the following changes to the District's ordinary meeting procedures:

- The District offices is open to the public between 9am-12pm and 2pm-4pm.
- The meeting will be conducted via teleconference using Zoom. (See authorization in the Governor's Executive Order 29-20)
- All members of the public seeking to observe and/or to address the GCSD Board may participate in the meeting telephonically or otherwise electronically in the manner described below.

HOW TO OBSERVE AND PARTICIPATE IN THE MEETING:

Telephone: Listen to the meeting live by calling Zoom at (253) 215-8782 or (301) 715-8592. Enter the Meeting ID# 279-281-953 followed by the pound (#) key. More phone numbers can be found on Zoom's website at https://zoom.us/u/abb4GNs5xM if the line is busy.

Computer: Watch the live streaming of the meeting from a computer by navigating to https://us04web.zoom.us/j/279281953 using a computer with internet access that meets Zoom's system requirements

Mobile: Log in through the Zoom mobile app on a smartphone and enter Meeting ID# 279-281-953.

HOW TO SUBMIT PUBLIC COMMENTS:

Written/ Read Aloud: Please email your comments to board@gcsd.org, write "Public Comment" in the subject line. In the body of the email, include the agenda item number and title, as well as your comments. If you would like your comment to be read aloud at the meeting (not to exceed three minutes at staff's cadence), prominently write "Read Aloud at Meeting" at the top of the email.

Telephonic / Electronic Comments: During the meeting, the Board President or designee will announce the opportunity to make public comments by voice and in writing, and identify the cut off time for submission of written comments. Comments can be emailed in advance of the Board meeting and up to the time of Board consideration of the item during the meeting. Send email to board@gcsd.org, and write "Public Comment" in the subject line. Once you have joined the Board meeting online using Zoom, public comments can also be submitted using the Chat function while in the Zoom Meeting. In the body of the email or Chat, include the agenda item number and its title, as well as your comments. Once the public comment period is closed, comments timely received in advance of consideration of the agenda item will be read aloud

ALL AGENDA MATERIAL ARE AVAILABLE ON THE DISTRICT WEBSITE AT WWW.GCSD.ORG OR MAY BE REQUESTED TO BE DELIVERED BY EMAIL OR U.S. MAIL BY CONTACTING THE DISTRICT SECRETARY AT 209-962-7161 OR Board@gcsd.org .
Any person who has any questions concerning this agenda may contact the District Secretary. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the District at 209-962-7161. Notification 48 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility to this meeting. (28FR35.102-35.104 ADA Title 11)

prior to Board action on the matter. Comments received after the close of the public comment period will be added to the record after the meeting.

ACCESSIBILITY INFORMATION:

Board Meetings are accessible to people with disabilities and others who need assistance. Individuals who need special assistance or a disability-related modification or accommodation (including auxiliary aids or services) to observe and/or participate in this meeting and access meeting-related materials should contact Jennifer Flores, Board Secretary, at least 48 hours before a regular meeting at (209) 962-7161 or jflores@gcsd.org. Advanced notification will enable the District to swiftly resolve such requests to ensure accessibility.

PUBLIC RECORDS:

Public records that relate to any item on the open session agenda for a meeting are available for public inspection. Those records that are distributed after the agenda posting deadline for the meeting are available for public inspection at the same time they are distributed to all or a majority of the members of the Board. The Board has designated the District's website located at https://www.gcsd.org as the place for making those public records available for inspection. The documents may also be obtained by calling the District office.

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July 20, 2020
10:00 a.m.

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call of Board Members**

   Janice Kwiatkowski, President
   Nancy Mora, Vice President
   John Armstrong, Director
   Spencer Edwards, Director
   Robert Swan, Director

4. **Discussion and Action Items**

   The Board of Directors intends to consider each of the following items and may take action at this meeting. Public comment is allowed on each individual agenda item listed below, and such comment will be considered in advance of each Board action.

   A. Presentation Regarding the Potential for Formation of a Community Facilities District to Fund Fire and Emergency Response Services Outside of the District Boundaries

   B. Discussion and Possible Action Regarding a Response to the Draft Environmental Impact Report for the Terra Vi Lodge Yosemite Project

   C. Discussion and Possible Action Regarding a Response to the Draft Environmental Impact Report for the Under Canvas Project

5. **Adjournment**

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Groveland Community Services District

BOARD MEETING AGENDA SUBMITTAL

TO: **GCSD Board of Directors**

FROM: **Peter Kampa, General Manager**

DATE: **July 20, 2020**

SUBJECT: **Agenda Item 4A. Presentation Regarding the Potential for Formation of a Community Facilities District to Fund Fire and Emergency Response Services Outside of the District Boundaries**

RECOMMENDED ACTION:
This is an information item only, however the Board may provide direction to staff related to CFD formation.

BACKGROUND:
During review of potential impacts to the GCSD Fire Department resulting from the development of additional resort projects located outside the District boundaries, and outside the automatic aid response area, the county and District have been attempting to identify a legal and effective means for project proponents to pay to GCSD the value they receive the Groveland Fire Department. Community Facilities Districts, or CFDs, may be the exact right vehicle for the county and GCSD to use to tax the resort properties to fund their share of fire department costs.

As identified in our 2020 Fire Master Plan update, the GCSD fire department spent 37% of its response time on calls located outside the GCSD boundary, providing automatic aid to the Tuolumne County Fire Department. The Master Plan also detailed the need to increase fire staffing for effective response to incidents and to seek a cost sharing agreement with the County to compensate for the level of benefit provided by GCSD fire to county fire. All of the above could be efficiently be funded through a CFD. We will be working toward the following condition on both the Terra Vi and Under Canvas projects, and researching the possibility of including the existing Evergreen Lodge and Rush Creek Lodge in the proposed CFD, or a new separate CFD.

"Prior to the issuance of any building permit, the property owner(s) shall mitigate the financial impact of the development on the Groveland Community Services District ("GCSD") Fire Department by: (1) approving the formation of a new or annexation into an existing community facilities district ("CFD") formed and levied by the County of

Tuolumne on behalf of GCSD or (2) depositing a sum money, as determined by the GCSD, sufficient to fund GCSD's costs of providing ongoing fire and emergency services, maintenance, operation, and the expansion and future repair and replacement of fire station facilities, apparatus, and equipment attributable to the development. Any costs for the formation of the new or annexation into an existing CFD, and approval of such annual CFD special taxes, or administration of the sum of money deposited to fund the GCSD's costs of providing ongoing fire and emergency services, shall be paid from the annual CFD special taxes or the sum of money deposited with the GCSD. If the property owner(s) fails to approve an annual CFD special tax or deposit an amount of money as provided for herein for such purposes for the GCSD, no further building permits for the development shall be issued."

Attached you will find a detailed document describing all aspects of the formation and use of CFDs. Blair Aas with the consulting firm SCI, will be in attendance to describe CFDs and answer questions.

ATTACHMENTS:

1. An Introduction to California Mello Roos Community Facilities Districts

FINANCIAL IMPACT:

None

An Introduction to

California Mello-Roos Community Facilities Districts

DANIEL C. BORT

ORRICK

DISCLAIMER: Nothing in this booklet should be construed or relied upon as legal advice. Instead, this booklet is intended to serve as an introduction to the general subject of California Mello-Roos Community Facilities Districts, from which better informed requests for advice, legal and financial, can be formulated.

Published by
Orrick, Herrington & Sutcliffe LLP

CALIFORNIA MELLO-ROOS COMMUNITY FACILITIES DISTRICTS

Chapter 9. **Issuance of Bonds (continued)**

CHAPTER ONE

Introduction

The Mello-Roos Community Facilities Act of 1982 (the "Act" or "Mello-Roos" – named after its authors, the late former State Senator Henry Mello and former Assemblyman Mike Roos) is an enormously flexible tool placed at the disposal of local governmental agencies* within the State to help them finance needed community facilities and services through the levy of voter approved special taxes.

Both lore and legend have built up around Mello-Roos, not all of which is accurate. This booklet, written for local agency elected officials and staff, real property developers, and citizens' groups, is a straightforward explanation of the capabilities of the Act and the procedures for its use.

The flexibility of the Act bears immediate reemphasis. It is not a blunt instrument. In fact, there is no "standard" application of the Act. The facts of each particular situation will have to be specifically addressed in order to make use of the Act.

Mello-Roos has application both in developed, and in undeveloped and developing areas, and this booklet will discuss both.

The author is a member of the Public Finance Department at Orrick, Herrington & Sutcliffe LLP. Orrick is the nation's premier tax-exempt bond counsel firm, ranked number one for more than a decade, with extensive experience in all types of land-secured financings.

* Any city, county, special district, school district, joint powers entity, redevelopment agency, or any other municipal corporation, district, or political subdivision of the state.

CHAPTER TWO

The Basic Concepts

Mello-Roos can perhaps best be thought of as a three-part process. Part One involves *defining* a package of proposed governmental powers. Part Two involves *conferring* those powers upon a local legislative body. Part Three involves *exercising* the powers by financing new facilities and/or services.

The powers the Act can confer through the formation of a community facilities district ("CFD") are, at the most basic level, the legal authority to levy and collect a special tax, to use that revenue to finance specified facilities and services, and to borrow money (by issuing bonds or incurring other debt) to assist with financing the facilities.

It is in Part One, the process of defining the proposed powers, that the flexibility of Mello-Roos, to creatively address the particular requirements of each situation, comes most into play.

Part Two involves the special tax election, with a two-thirds affirmative vote of the qualified electors required to confer the proposed powers. With a successful election, much of the flexibility disappears, and the outer limits of the governmental powers become fixed.

Part Three is dealt with later in this booklet – beyond observing here that there is nothing in the Act that *compels* the local legislative body to exercise the powers conferred. The legislative body retains the flexibility to implement the levy of the special tax, and the issuance of debt, and the provision of financing for facilities and services, when and in the manner they turn out to be needed. Thus Mello-Roos is particularly suited for phased developments, or projects that will develop over a considerable period of time.

Part One – Defining the Proposed Governmental Powers

Special Tax for Authorized Purposes and Bonds: The special tax is levied on real property. The Act does not direct how the special tax is to be applied, except that it may not be *ad valorem.* (An *ad valorem* tax is one that utilizes a tax rate and applies it to a measure of value such as assessed valuation.) The purposes for which the special tax may be levied must be specified. The special tax may be used:

a. To pay directly for facilities;

b. To pay directly for services;

c. To pay debt service on bonds or other debt the proceeds of which are used to finance facilities; and

d. For any combination of the above.

The particular method of allocating the special tax, and the facilities and services to be authorized, must be specified. If bonds are to be authorized, their amount and maximum term must be specified as well. These topics are treated in greater detail below.

Multiple Local Agencies: The Act provides local agencies with maximum flexibility, but nonetheless hopes local agencies will cooperate with one another in the intelligent allocation of the necessarily limited financing capacity of developing property. The legislature hoped to avoid the spectacle and inefficiencies of one local agency rushing to grab the financing capacity of new development in order to finance its own needs without regard to those of other local agencies.

Therefore the Act encourages consideration, at least, of other agencies' facilities, and includes authorization to combine the needs of different governmental units in a single CFD. This can be done through a Joint Community Facilities Agreement or a Joint Exercise of Powers Agreement ("Joint Powers Agreement"), where one local agency conducts the proceedings for itself and for another public agency. In such a case, the local legislative body conducting the Mello-Roos proceedings must be that of either a city or a county, or of the agency with the largest financial interest in the CFD.

Addressing the needs of different local agencies in a single CFD can also be done through a Joint Powers Agreement that creates a Joint Exercise of Powers Authority (a "Joint Powers Authority" or "JPA") that will itself conduct the Mello-Roos proceedings. Normally a JPA may only exercise powers common to all parties to the Joint Powers Agreement. Mello-Roos allows each member of the JPA to use Mello-Roos monies for what it is authorized to do, even if another member of the JPA does not have that power.

Any local agency that is not a city or a county must notify any city whose territory is proposed to be included within the agency's CFD, and must similarly notify any county whose unincorporated territory is proposed for inclusion within the CFD. The local agency does this by providing a copy of its adopted Resolution of Intention. There is no requirement that either the city or the county grant consent. The intent appears to be that local government's right hand should know what local government's left hand is doing, and thus if coordination is appropriate, it can take place.

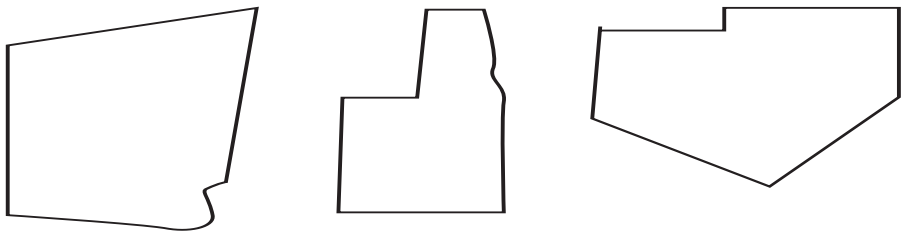
District Boundaries: There is flexibility to define *who will pay* the special tax. The primary way this is accomplished is by specifying what land area will be included in the CFD. Very significantly, the land area to be subjected to the special tax need not conform to the jurisdictional boundaries of any local agency and it need not be contiguous. A local agency cannot form a district that extends *beyond* its own territorial limits. If such a district boundary is desired it requires either a Joint Powers Agreement with the agency into whose territory the boundary extends, or a larger agency that geographically encompasses the proposed CFD boundary (such as a county) to conduct the proceedings (although a county may not form a CFD that includes territory within the incorporated limits of any city without that city's consent). There are some restrictions on including agricultural and other use-restricted land in a CFD. Local Agency Formation Commission (LAFCO) approval is not required.

Part Two – The Election – Vote by Landowners or Registered Voters

The requirement for the two-thirds approval by vote of the qualified electors was imposed by Article XIIIA of the California State Constitution (Proposition 13). One of the most significant aspects of Mello-Roos is the way in which the Act defines "qualified electors." If at least 12 persons have been registered to vote within the proposed district for *each* of the 90 days preceding the close of the protest hearing on the district, then the qualified electors are the registered voters (except in circumstances where the special tax will never be levied on residential property). *Otherwise,* the "qualified electors" are the *owners of land* within the district, with each such owner entitled to one vote for each acre or portion of an acre owned (e.g. 1.9 acres = 2 votes; 2.1 acres = 3 votes). District boundaries can be, and often are, intentionally drawn to accomplish the goal of creating a "landowner vote" district.

SAMPLE CFD BOUNDARY

LANDOWNER DISTRICT



A quick note here: some local residents have complained of being "disenfranchised" by being intentionally excluded from CFDs that were gerrymandered (which should not necessarily be considered a bad word in this context) for landowner elections. But Mello-Roos is a *financing* mechanism; it is not a land-use approval mechanism. All of the traditional public input in the land-use approval process remains. Mello-Roos comes into play only as a tool to help to implement land-use approvals made in other proceedings. And there is a persuasive logic in excluding from the financing process those who will bear none of the financing burden.

Mello-Roos thus has application in two very different contexts, which can be called, for convenience, the "landowner vote" or "development context," and the "inhabited area," or "registered voter" context. The flexibility of Mello-Roos has been used to great advantage in both.

Limitations on Landowner Vote Districts: The legislature placed restrictions on both the *type* and *level* of *services,* and on the *level* of *facilities,* that may be authorized by a *landowner* vote, and it is important to understand them. The restriction on *type* of *services* is set forth below with the larger description of the services the Act can provide. The restriction on *level* of *services* is that the CFD may only finance services "to the extent they are in addition to those provided within the area of the district before the district was created," and the "additional services may not supplant services already available within that territory when the district was created." The restriction on *level* of *facilities* is that a local agency may only conduct a landowner vote if it determines "that any facilities financed by the district are necessary to meet increased demands placed on local agencies as the result of development or rehabilitation occurring in the district."

Thus the Legislature limited the use of landowner vote CFDs to *mitigating the impacts of new development.* If there are pre-existing needs for facilities or services within the local agency, Mello-Roos is *not* to be used as a tool to require new development to pay for them – those needs must be addressed by the community as a whole. Nor is the landowner CFD to take on the financial burden of services the local agency is already providing.

CHAPTER THREE

What Mello-Roos Can Do

Mello-Roos is most commonly used to finance facilities; but it can also be used to finance services and, of course, may be used to finance both.

Facilities

The range of public facilities that may be financed is very broad. There is an extensive description of authorized facilities in the Act, but it is fair to boil it down to the purchase, construction, expansion, improvement or rehabilitation of real or other tangible property with an expected useful life of 5 years or longer which the local agency is authorized by law to construct, own, operate, or to which it may contribute revenue. A CFD may also pay off assessment liens and certain special tax liens, and fees and charges on property within its boundaries which themselves are used to pay for such facilities. Facilities for privately-owned, publicly-regulated utilities may also be financed. These require entering into an agreement with the utility company. A CFD may even, under some circumstances, finance seismic retrofit and repair work on private property (bonds for such purposes generally could not be tax-exempt). Financed facilities are not required to be located within the boundaries of the CFD.

Construction: The local agency may construct the facilities itself, using tax or bond proceeds, or both, as well as any other available funds. It would proceed in the same manner as any public works project.

Acquisition: The local agency also may *acquire* facilities constructed by others (typically a developer). The local agency need not require everything to be finished before it begins to acquire the improvements. It is permitted to purchase "discrete

portions or phases" of facilities. Unless a facility costs more than one million dollars, the discrete portions or phases need to be capable of serviceable use at the time they are purchased. When an improvement costs more than one million dollars, the local agency may, if it wishes, purchase discrete portions or phases of the facility that are not yet usable. This appears to allow, but not to require, local agencies to make what, in effect, are progress payments for the work.

Where someone other than the local agency is constructing the facilities, then unless they were completed prior to the formation of the CFD, the work must be performed or constructed as if it were being done under the direction and supervision, or under the authority of, the local agency. Thus, for example, if and to the extent the local agency would be required to pay "prevailing wage," the construction of facilities to be purchased from the private entity would be subject to the same requirement.

Local agencies should be aware that if they are going to acquire work performed by others, it should be by means of a written Acquisition Agreement that fully protects public facility standards and public funds and provides for appropriate indemnification and insurance for claims made against the local agency in connection with the project.

Services

By contrast, the services that may be financed are quite limited, and are even more limited for landowner vote districts. The first group of services may be authorized by either a registered voter or a landowner election:

- Police protection services
- Jail, detention facility, and juvenile hall services
- Fire protection and suppression services
- Ambulance and paramedic services

- Maintenance of parks, parkways and open space
- Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems, and sandstorm protection services
- Environmental cleanup and remediation services

A second classification of services may not be authorized by a landowner election, but only by a registered voter election:

- Recreation program services
- Library services
- Operation and maintenance of museums and cultural facilities
- Maintenance services for elementary and secondary schoolsites and structures

CHAPTER FOUR

Use of Mello-Roos in the Development Context

It is a basic axiom that the price at which a developer expects to sell new homes to the public must be sufficient to repay the developer for all of the costs of the project (including the required public improvements) and to earn a reasonable profit, or there will be no economic incentive for the development to take place. Developers, of course, can miscalculate, and economic conditions can change; but as a general rule the cost of the public improvements is ultimately borne by the new residents who buy the new homes and by the businesses that buy the new commercial properties.

Financing such public improvements through public financing is generally more efficient than conventional financing (obtained from banks or the private capital markets) for a few reasons:

- **Better Interest Rates.** Because interest paid on Mello-Roos special tax bonds is generally excluded from the taxable income of its recipients, the purchasers of the bonds can accept a lower interest rate than on a taxable investment, and still achieve the same after-tax return. The resulting difference between tax-exempt interest rates and taxable interest rates varies, but the former can be as much as two or three percentage points lower for comparable term financing. This lowers the borrowing cost for Mello-Roos bonds.

- **Better Terms.** Conventional private financing is not likely to be available for real estate developers on a long-term, fully amortized, fixed rate basis. Most such financing is at variable rates with shorter terms and balloon payments.

- **Assumability.** The debt represented by Mello-Roos bonds is similar to a mortgage in that the ultimate security for the repayment of the debt is the real property itself. Unlike many mortgages, however, when a piece of property

bearing the Mello-Roos debt changes hands (is sold to a homebuyer, for example), there is no requirement that the debt be paid off and a new loan obtained. That is, the homebuyers may *assume* the Mello-Roos debt attributable to their new home. This has a few possible benefits:

- A portion of the borrowing for their purchase is already in place and this reduces the amount the homebuyers must borrow in their mortgage;
- The generally advantageous interest rate is passed along to the homebuyers for that portion of their total borrowing; and
- The total volume of borrowing transactions is reduced, because some money is borrowed once rather than twice, thus reducing transaction costs.

The first of these benefits exists only if it shows up in the purchase price. That is, if a house that is unencumbered by Mello-Roos debt is worth $350,000, an equivalent house should, under normal market conditions, only sell for $325,000 on the open market if it is encumbered by $25,000 in Mello-Roos debt.

The phrase "Mello-Roos debt" has been used loosely here. There is not a fixed amount that is a lien on the property. Rather, there is the liability of the property to pay an annual special tax; but the market tends to calculate an equivalent amount of debt for comparative price purposes. One can tell that this factor is operating properly in the market when the real estate ads for those homes *not* subject to the Mello-Roos tax mention that fact. When those ads say, "No Mello-Roos!", the advertiser is not making a political statement. Rather the advertiser is pointing to a feature that makes her house more attractive to a buyer, and hence worth more. Implicit in this is the market recognition that those who *do* purchase a home burdened with a Mello-Roos tax will get a discount in the purchase price for doing so. This is not inevitable when real estate market conditions are extreme, but in most situations appraisers have for years been able to document this differential.*

Thus Mello-Roos can assist the local agency in getting needed infrastructure, assist the developer in financing its project, and assist the homebuyers in financing their home purchases.

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* An interesting study of this phenomenon was made by the Public Policy Institute of California: "Who Pays for Development Fees and Exactions?" by Marla Dresch and Steven M. Sheffrin.

CHAPTER FIVE

Use of Mello-Roos in Inhabited Areas

If the local agency is not a school district or community college district (and thus cannot authorize general obligation bonds with a 55% vote under Proposition 39), any financing in developed areas will require a two-thirds vote of the registered voters. Traditionally, general obligation bonds are used. But there are reasons to consider Mello-Roos as an alternative.

Mello-Roos can fund services and general obligation bonds cannot. Mello-Roos can also fund non-real property (with an expected useful life of 5 years or longer), such as equipment and furnishings. General obligation bonds (unless under Proposition 39) are restricted to real property.

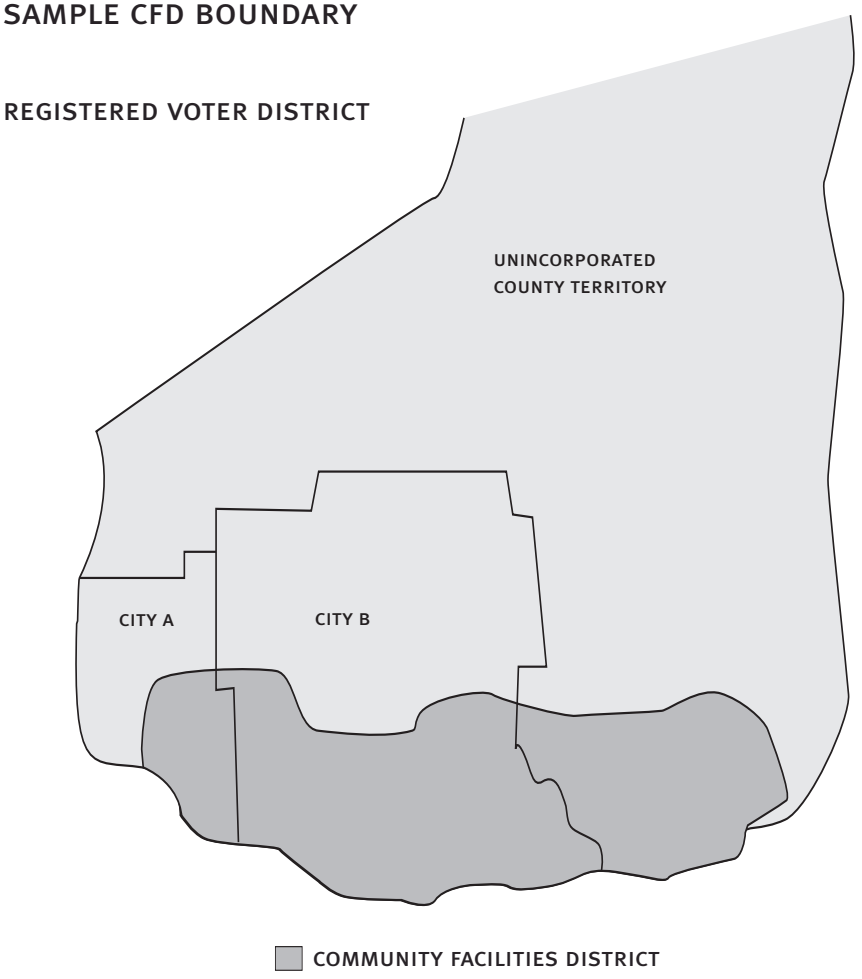
Even if both methods are equally capable of funding the desired project, there are still reasons to consider using Mello-Roos because it can address two areas of concern – district boundaries and tax rate – in ways that can increase the chances for a successful election.

Whatever the project, it may be that the area that will most benefit from it does not conform to the jurisdictional boundary of any single local agency that might sponsor the election. This may cause concern that voters, within the jurisdictional boundary of the local agency, who perceive that they will not be particularly benefited by the project, will tend to vote "no," thus jeopardizing the requisite two-thirds vote.

Mello-Roos can address this concern by establishing the boundary of the CFD to encompass only the area that will most clearly benefit from the project. This could be simply a portion of the local agency. In one instance, where acquisition of open space was involved, a county was able to confine the election to the land most benefited by

the project, even though that comprised only portions of two municipalities within the county (whose councils consented), plus some adjacent unincorporated territory. That election was successful. As a variation on the theme, a Joint Powers Agency CFD was formed that included all of two adjacent municipalities that would share a library. The issue was thus able to be decided in a *single* election across both cities, and that measure also passed.

SAMPLE CFD BOUNDARY



COUNTY CONDUCTS PROCEEDINGS WITH CONSENT OF CITIES A AND B

A second consideration involves the Proposition 13 effect on property valuations. Californians are familiar with the phenomenon of two houses, essentially equivalent in value, where the *ad valorem* tax burden on the one is a multiple of the *ad valorem* tax burden on the other because the one was just purchased, and the other was purchased many years earlier for a substantially lower price and as a result, under Proposition 13, it has a substantially lower assessed value. While the public is more or less adjusted to this discrepancy with respect to general taxes, and there is the consciousness that there is not much to be done about it anyway, when a general obligation bond issue is proposed, the difference in assessed values tends to be revisited in a new light.

Suddenly, in the context of considering whether to vote to tax himself for the new library, Mr. Smith realizes that if the measure passes, he will be paying twice or three times as much as his neighbor; yet Mr. Smith also realizes that he will receive no more benefit from the library than the neighbor does. *This issue does get raised* and, irrespective of views on Proposition 13, significant numbers of people consider the result, in this context, unfair – and they *can* do something about it, by voting "no."

But with Mello-Roos, a flat, per parcel tax can be used, or some other taxing method can be designed that conforms to the community's sense of fairness for the particular project. This approach has proved successful in a number of instances.

CHAPTER SIX

The Formation Process

For a typical CFD, the formation process is really three separate but related proceedings. Normally these are combined and run concurrently. They are proceedings to:

- Form the CFD and authorize the special tax;
- Authorize bonded indebtedness for the CFD; and
- Establish the Constitutional Article XIIIB "Appropriations Limit" for the CFD.

The first two proceedings involve public hearings and elections requiring a two-thirds vote. The third involves an election requiring a majority vote. There is no prohibition on holding both hearings at the same time, and there is specific statutory authority to combine all three ballot questions into a single ballot measure, and that is the usual practice. The three will be discussed as if they were a single process.

Prerequisites

Assemble the Local Agency's Internal Team: Before a local agency gets involved in something as complex as Mello-Roos, it will want to assemble its own internal team to administer the process. This may or may not involve a formal staff committee, but it is good practice to have it include a staff person who is designated, and will act, as the "manager" of the process, and who has appropriate resources at his or her command. These resources include access to the time, attention and participation of other appropriate local agency staff, access to policy makers when policy decisions need to be made, and the authority and funds to hire the appropriate consultants.

Assemble the Local Agency's External Team: The local agency will need appropriate outside consultants to implement a CFD financing. These include, at least, bond counsel, a special tax consultant, a financial advisor and/or underwriter (if bonds are to be issued), some engineering and estimating assistance, and perhaps a public opinion consultant (if a registered voter election is planned). Later in the process additional consultants may be required. These may include an appraiser, an absorption analyst, disclosure counsel, an investment advisor/provider, a CFD administrator, an arbitrage/rebate service provider, a dissemination agent for continuing disclosure, and a foreclosure counsel.

In the development context, the developers frequently are required to advance the local agency's costs, including the costs of the consultants, with reimbursement coming from bond or special tax proceeds pursuant to a Deposit and Reimbursement Agreement.

Adopt Local Goals and Policies: Before a local agency may undertake any Mello-Roos proceeding, it is required to adopt its own "Local Goals and Policies" concerning its use of the Mello-Roos Act. These must include statements of:

1. The priority to be given, in the use of the Act, to the various types of public improvements that might be financed, including facilities of other public agencies (for example, if the agency is a city or a county it should consider the priority to be given to school facilities, and if it is a school or special district, it should consider the priority to be given to basic infrastructure);

2. The credit quality to be required of any bonds issued, and the means of measuring that quality – the focus here usually being the ratio between the value of the property that is the security for the tax, and the amount of bonds permitted to be sold;

3. The steps to be taken to ensure that prospective purchasers of property will be informed of the special tax before they enter into a contract to purchase;

4. Criteria for evaluating the equity of proposed special tax formulas, and desirable and maximum limits on the special tax;

5. Definitions, standards and assumptions to be used for appraisals of the taxable property that will be the security for the bonds.

In addition, **school districts** are required to include a policy for priority access to CFD-financed schools by children of Mello-Roos taxpayers, although that policy may be tempered by: other goals to achieve ethnic, racial or socioeconomic diversity; transportation needs and safe pedestrian routes; grade levels for which facilities are designed; ensuring continuity of schooling within a single school year; and federal, state and court mandates.

The same legislative concerns that led to the imposition of the requirement to adopt Local Goals and Policies also resulted in the direct imposition of certain requirements. Most local agencies, therefore, have simply adopted statutory standards for items 2 and 3 above.

Bond counsel can assist the local agency in preparation of the Local Goals and Policies.

Adopt (if applicable) the Joint Powers Agreement: If a Joint Powers Authority is going to conduct the proceedings, it will have to be formed. That involves drafting the Joint Powers Agreement and getting the Agreement approved by each local agency that will be a party to it. This is frequently done by bond counsel. If the Joint Powers Agreement creates its own Board that will administer the Agreement, certain filings are required with the Secretary of State. Once that has been done, and the JPA has adopted its conflict-of-interest code, the board of the JPA then acts as a local legislative body under the Act. It will then have to assemble its own internal and external teams and adopt its own Local Goals and Policies. Sometimes a JPA will, like any other local agency, enter into a Joint Community Facilities Agreement with another local agency, not a participant in the JPA, where facilities of the other local agency are to be financed through the CFD. Further references in this booklet to "local agency" will include a JPA that is conducting Mello-Roos proceedings.

Pre-Formation Considerations

Once the Local Goals and Policies are in place, the local agency may consider conducting formal proceedings. But the formal proceedings are normally the least of it. The first set of resolutions to be considered in the formal proceedings must include all of the elements of the proposed governmental powers. Once those are determined, the formal proceedings, at least until the election, can be rather routine. The informal pre-formation process of negotiating and defining the proposed governmental powers is the real substance of most Mello-Roos proceedings.

In the *inhabited area* context this usually involves a citizens' committee working with members of the local legislative body, and with the agency's internal and external teams, to craft the CFD boundary, the method of taxation, and a ballot measure that will accomplish the desired financing goal and be most appealing to the electorate.

In the *landowner* context there is an interesting dynamic. If the local legislative body does not approve of the proposed use of the Act, it simply will not conduct the proceedings. If the landowners within the proposed CFD are not at least willing to accept the proposal, they will not vote for it. Therefore, there is a period of negotiation that involves the public agency staff, the landowners, and the various consultants retained both by the public agency and the landowners. If there are multiple landowners, this process can involve negotiations *among* landowners.

Bond Market Considerations: A use of Mello-Roos that is brilliantly effective for local planning and project purposes, but which results in bonds that no one will buy, or that will only sell with very high interest rates, is usually not an effective use of the Act.

An underwriter and/or financial advisor can inform the participants of the needs and requirements of the bond market – the community of buyers of such bonds. Therefore, in most situations, the local agency will hire or designate an underwriter and/or a financial advisor early on to participate in the pre-formation process.

Federal Tax Issues: Federal tax law imposes many requirements and restrictions on the issuance of tax-exempt bonds. These can only be touched upon in the most cursory way here. Among them:

- The local agency may not borrow at tax-exempt interest rates for the purpose of investing at (higher) taxable interest rates, thus earning a spread, called "arbitrage." This rule extends much farther than one might think. It affects the administration of virtually every tax-exempt bond issue, and it discourages the issuance of bonds earlier than necessary.

- The tax exemption is generally to benefit public, as opposed to private, purposes. Different circumstances give different meanings to that concept, but for most Mello-Roos purposes it means that not more than 5% of the spendable proceeds from the bonds can be spent on the private facilities that are authorized by the Act. Most commonly these are facilities of publicly-regulated (although privately-owned) utilities.

- Nor may the local agency simply decide to issue bonds to reimburse itself for its own past expenditures for public works. As to any project the local agency must state an "official intent" to reimburse itself which makes eligible for reimbursement the agency's *future* expenditures on the project, as well as those made within the previous 60 days.

- The special tax must be applied on an "equal basis" to property owners. Thus special rules to favor, or disfavor (such as mandatory prepayments), specific taxpayers, as opposed to reasonable differentiations between distinct classes of taxpayers, are not permitted.

Any issuance of tax-exempt bonds requires the services of bond counsel expert in the intricacies of these and other Federal tax issues.

Facilities and Services: Normally everyone knows what they want to finance and this element is relatively easy to specify. But at times it can be difficult, such as when

different facilities for different public agencies need to be prioritized. As mentioned earlier, if facilities for investor-owned utilities are to be included, appropriate agreements should be entered into with those utilities. Bond counsel needs to pass on what facilities are eligible for *tax-exempt* financing.

Boundary of the District: Determining the boundary of the CFD is a purely political process in inhabited districts. In the development context it is a process of negotiation involving the desires of the developers, and the policies of the local agencies regarding the obligations of new development.

The Special Tax: Perhaps the most significant aspect of any CFD is the Rate and Method of Apportionment of the Special Tax ("RMA"). The RMA may, but need not, be based upon an estimate of the benefit, to each parcel, of the facilities and/or services to be financed in the way a special assessment is. Special taxes have been based on square footage, number of bedrooms, and a myriad of other factors. The only statutory standard for the special tax is that it be reasonable. Thus, if there is a reasonable basis for it, distinct areas and land uses can be taxed differently. There have been instances in which, for public policy reasons, the RMA has reduced or eliminated the special tax on property owned and occupied by senior citizens, or on low income housing.

Changes in the tax can be programmed to take place over time; and the tax – in whole or in part – may be made contingent or adjustable based on events occurring, or determinations to be made, in the future, so long as the provisions for doing so are specified in the RMA. It is very common for property to be taxed differently as it moves through the development process. It may be taxed initially at a rate assigned to "undeveloped property," then as "mapped property" once it is included in an approved tentative or recorded final map, and finally as "developed property" once a building permit or certificate of occupancy is issued. There are, of course, many variations on this structure.

The special tax is normally collected as a separate line-item on the secured property tax roll; yet if authorized by the RMA, the special tax, or specified elements of it, may be collected otherwise than on the secured roll, and may be made payable at different times and in different ways and to different agencies.

In sum, every new situation carries with it the possibility of revealing new ways in which the flexibility of the Act can be utilized to address the particular governmental and development problems that may present themselves. Be aware, however, that creative impulses in designing the special tax need to be balanced against the data-collection and administrative burdens that an unusual tax structure may impose on those preparing the annual special tax levy.

If the special tax is anything other than a straight, flat-rate, parcel tax, the services of an experienced special tax consultant are virtually indispensable. Such a consultant deals with the complex interrelationship between the progress of development and its effect on special tax revenues and on the need for facilities, the appropriate tax loads for different kinds of land uses, the "back-up tax" (discussed below), the prepayment mechanism (discussed below), and the utilization of criteria in apportioning the special tax that will not create logistical problems.

The lien of the special tax is on a parity with the general property tax lien and thus is superior to all private liens and mortgages. The real estate market, the bond market, and the local agencies' Local Goals and Policies tend to put a limit on the amount of tax burden that may be placed on residential property. This is not a statutory limitation. The current prevailing wisdom sets 2% of the purchase price of a house as the maximum annual tax burden to be imposed upon it. Since 1% of the purchase price is allocated to the general *ad valorem* tax, that leaves a maximum of another 1% of the purchase price for special taxes, special assessments, general obligation bonds, and other charges collected on the secured property tax roll. Many local agencies prefer slightly less.

There are some statutory limitations on the special tax for the protection of homeowners. Once property is in private residential use (property "moves into" this category at the latest when the certificate of occupancy for the dwelling is issued), the RMA must specify a maximum annual tax for public *facilities* in dollars (which may not inflate more than 2% per year), and a final year beyond which the tax may not be levied. In addition, any increase in the special tax for facilities, attributable to making up for tax delinquencies that occur within the district, may not exceed 10%. This sometimes results in an RMA that provides for levy of the tax on developed property at 90.91% of the maximum. This allows the tax to be increased to the

maximum, if necessary, without violating the 10% limitation. It also provides what is called "110% coverage" for debt service on any bonds, which makes them more attractive to the bond market. Note that none of the four limitations (maximum stated as a dollar amount [as distinct from an objective formula], time limit, annual inflation limit, and increase-for-delinquency limit) apply to a special tax for *services,* or to a tax for non-public facilities, or to a tax on non-residential property.

A tax with a 2% annual escalation will support a bond issue that will generate approximately 15%-20% more money for facilities than if the tax does not increase.

Good practice generally dictates that special taxes be levied in a way that will not fluctuate very much for homeowners. The better approach is to levy special taxes at or near the maximum amount that homeowners were told to expect when they bought their homes. Then, when circumstances permit, the taxes can be lowered with the confidence that they will not go back up again in the future. To levy the special taxes at a lower level initially (which the homeowners then get used to), and to raise them when the next series of bonds is issued, or when the next phase of development goes forward, is a scenario fraught with financial difficulty for the homeowners and, hence, political difficulty for the local agency.

In many cases, in the development context, a "back-up tax" is included in the RMA. This is an element of the RMA that normally is not activated. But where a CFD covers a large area that will develop over a long period of time, there needs to be a provision to address the possibility that land uses may change in such a way that the normally operative provisions of the RMA no longer generate sufficient revenue. This can accommodate changes in permitted land uses, reductions in approved density, and takings of land for public use, such as for freeways or open space. The back-up tax is thus a security device for bondholders, public agencies, and property owners. It frequently is an acreage charge. If not done properly, a back-up tax can frighten away potential purchasers of land and of bonds.

The Rate and Method of Apportionment of the Special Tax should always allow for all administrative expenses of the district to be paid from the special tax collections.

Special Taxes for Both Services and Facilities: If a CFD finances both facilities and services, it will generally simplify matters to administer these two elements of the special tax separately, although they would normally be added together for posting to the property tax roll. The facilities tax is subject to the limitations described above under "Special Tax Considerations," while the services tax is not. And if provision has been made for the prepayment and permanent satisfaction of the special tax (see below), as a practical matter such prepayment is almost invariably limited to the tax for facilities. Therefore, it may make sense to prepare two separate Notices of Special Tax Lien (one for the facilities tax, and one for the services tax) and record them both. The lien of the facilities tax will eventually be released. The lien of the services tax may not ever be.

In some cases, the tax for services, whether determined separately or as part of a single tax for facilities and services, will be pledged in the first instance to the payment of bonds. This device can, in certain circumstances, help reduce the interest rate on the bonds by providing additional "coverage" to the bond purchasers. This increases the security of the bonds, but puts the payment for services at risk.

Prepayment (or "Payoff") of the Special Tax Obligation: There is no statutory right to prepay and permanently satisfy the special tax obligation, as there is in the case of a special assessment for facilities. Nonetheless, the Act permits a prepayment mechanism to be created and included in the proceedings. Unless the local agency has determined to put a time limit on its authority to tax for services, it normally makes no sense to apply a payoff option to that element of the special tax. But a prepayment mechanism for the tax for facilities is quite common.

Depending on the nature of the RMA, a prepayment mechanism can be complex. Given the requirements of the bond market, the prepayment mechanism will have to resolve all uncertainties against the interest of the property owner wishing to prepay. Therefore, it may be a rare case where the prepayment will be economically sensible for the property owner until:

- the CFD has issued all of the debt (except for refundings) that it is ever going to issue; and

- all of the property that is going to be subject to the special tax is in its final configuration as far as the RMA is concerned (that is, no future development is going to shift special tax burden from one property to another, or increase special tax revenues).

If there is any possibility of uncertainty, local agencies can consider including in the payoff mechanism a requirement for a *contemporaneous* finding by the legislative body that the acceptance of the prepayment will not endanger the timely repayment of debt. The prepayment mechanism should in any case require payment of a non-refundable, up-front fee to cover the local agency's costs of calculating and implementing the prepayment.

Whenever a special tax obligation has been prepaid and permanently satisfied, the local agency must prepare and record a Notice of Release of Special Tax Lien. In the event that the tax will continue to be levied for *services,* the Notice of Release of Special Tax Lien (if there were not separate notices for the facilities tax and services tax) should describe the obligation that is released as well as the obligation that is continuing.

Bond Authorization: If bonds are to be issued, their maximum amount and maximum term must be specified in the initial resolutions. Most maximum terms in the development context are set at "40 years from date of issuance" as a matter of course. But the maximum amount involves making an estimate of future needs and future special tax revenues. An excessively high bond authorization is not good for several reasons, but within the range of reasonable estimation, it is better to err on the high side. Where the homeowner/constituent is directly impacted by Mello-Roos is in the amount and duration of the special tax. That is necessarily a limitation on the amount and term of bonds that can be issued. The specification of the authorized facilities is another limitation. The local agency may only sell bonds for authorized facilities, and when those facilities are completed or acquired there is no further authority to issue bonds. But if authorized facilities remain to be financed, and if there are sufficient special tax revenues to fund them, it makes no sense to be stymied because the amount of the bond authorization was poorly estimated and set too low, or the term of the bonds was unduly limited. Let the RMA and list

of facilities, rather than the bond authorization, be the limiting factors. There is nothing wrong with having bond authorization that is never used.

The situation may be slightly different with a registered voter election. The voters will see the maximum amount of bonds specified in the ballot measure and expect that such amount will be available for the project. They will also tend to consider the maximum term of the bonds as the duration of the special tax. Financially, one would still rather be limited by tax revenues than by bond authorization; but it may be better, politically, not to raise false expectations of bonding capacity, or to allow a longer term for the bonds than is necessary. More precise estimating is generally both more appropriate and more attainable in this context.

Appropriations Limit: The appropriations limit at issue is that of the CFD, not that of the local agency. Therefore the appropriations limit is being "established," not "changed," and there is no four-year sunset under Section 4 of Article XIIIB of the California Constitution. In the formation proceedings the appropriations limit needs to be set at a level that will enable the CFD to collect and spend the taxes necessary to fulfill its functions. This is also a situation in which it is prudent to err on the high side. Usually one needs to be concerned only with the early years because the appropriations limit will increase proportionately with the cost of living and with increases in the population of the CFD (to prevent a mathematical anomaly, a totally uninhabited CFD is presumed, by statute, to contain at least one person).

Engineering: Engineers and/or facilities planners, in conjunction with or as part of local agency staff, are needed to do preliminary design and cost estimates for the facilities, and to help make the determination of when the various facilities are required to be in place as development proceeds. The time-relationship between the progress of development and the need for particular facilities can have a significant impact on all of the other aspects of the CFD. An engineer will also need to prepare the formal boundary map for the CFD.

Petition to Form a District: There is a procedure whereby the local legislative body can be *compelled* to adopt a Resolution of Intention to form a Community Facilities District. This can be a petition by any two members of the legislative body itself, or a petition by the owners of at least 10% of the land area within the

proposed CFD, or a petition by at least 10% of the registered voters within the CFD. But the petition must present the proposed Resolution of Intention, which necessarily requires the boundary map, the RMA, and the description of authorized facilities and services. In such a case the local agency is permitted to determine its estimated costs for conducting the proceedings that will be required (including the giving of the appropriate notice of the public hearing), and to require payment of that sum before it takes action on the petition.

But the petition can only push so far. After the close of the public hearing, the legislative body has complete discretion to go no further and to abandon the proceedings. Of course, it can also initiate proceedings on its own motion without a petition.

Some public agencies *require* a petition and combine it with a formal application process, in which a landowner/proponent of a community facilities district must describe its development plans and reveal a certain amount about its financial strength.

The Completed Package: When the whole design/negotiation process is completed, it results in a package containing:

- A petition (if applicable);
- A form of Deposit and Reimbursement Agreement (landowner vote) by which the developer will advance the local agency's costs and by which it will be reimbursed from bond or special tax proceeds;
- A formal boundary map of the proposed district;
- A description of the facilities and services to be authorized;
- The proposed RMA of the special tax;
- The amount and term of the proposed bond authorization;
- The amount of the proposed appropriations limit; and

- Forms of Joint Community Facilities Agreements or Joint Powers Agreements with all other local agencies that will own any of the facilities or provide any of the services.

First Meeting of the Legislative Body (Initiation)

The completed package then permits bond counsel, working with local agency staff and the other consultants, to prepare resolutions for consideration by the legislative body. These resolutions formally set forth the proposed package of governmental powers. Once approved, they set the maximum limits of those powers. These resolutions typically include:

1. Resolution Accepting Petition (if applicable);
2. Resolution Approving Deposit and Reimbursement Agreement (if applicable);
3. Resolution Approving Boundary Map;
4. Resolution of Intention to Form the CFD;
5. Resolution to Incur Bonded Indebtedness; and
6. Resolutions Approving the Joint Community Facilities Agreements or Joint Powers Agreements (if any facilities or services will be those of other local agencies).

Notice of Public Hearing

Both the Resolution of Intention and the Resolution to Incur Bonded Indebtedness are required to set public hearings to be held by the legislative body not less than 30 nor more than 60 days from their adoption. Notice of the hearing, including either the text of the Resolutions or a summary of them, must be published once in a newspaper of general circulation in the area at least seven days before the hearing. This notice is in addition to the usual notices the local agency gives under the Ralph M. Brown Act. With a landowner election without 100% written agreement

from the landowners, it may be advisable to mail notice of the hearing as well (such notice is permissive under the Act). If mailing is done it should be accomplished at least 15 days before the hearing. After the resolutions have been adopted, bond counsel can assist in giving the appropriate notices (including providing copies of the Resolution of Intention to other agencies, as required).

Prepare Hearing Report

The Resolution of Intention will normally direct those officers of the local agency who will have charge of the proposed facilities and services to prepare a report, for the public hearing, demonstrating the need for the facilities and services and estimating their cost. This report is frequently prepared by the developer's engineer or by an outside engineer hired by the local agency and then reviewed and approved by the local agency staff. It is made available for inspection by the public.

Record Boundary Map

The boundary map must be recorded with the county recorder not more than 15 days after the Resolution of Intention is approved, and in any case not less than 15 days prior to the public hearing.

Approve Joint Agreements

Note that any Joint Community Facilities Agreements or Joint Powers Agreements with other public agencies whose facilities or services will be financed by the CFD are required to be finalized and executed before the Resolution of Formation (see below) is adopted. Bond Counsel will typically prepare resolutions for the other agencies to adopt, approving the agreements, and arrange for the agreements to be executed, before the Second Meeting.

Second Meeting of the Legislative Body (Public Hearing and Formation)

At the Second Meeting of the legislative body, the public hearing is conducted. Written and oral protests against the proposed governmental powers or any aspect of them may be made at the hearing, and written protests may be delivered to the clerk of the legislative body at any time up to the time set for the hearing. At the public hearing, the legislative body hears the testimony of all interested persons for or against the proposed powers. If 50% (but at least six) of the registered voters within the CFD file written protests, or if the owners of at least 50% of the land area that would be subject to the special tax file written protests, and sufficient protests are not withdrawn by the end of the hearing to reduce them to less than 50%, the proceedings must be abandoned, and the same proposal may not be renewed for at least a year. If the majority protest is only against some aspect of the proposed powers, only that aspect must be removed from the proceedings. The hearing need not be completed in one day. It may be continued for up to 30 days or, with a special finding by the legislative body that the complexity of the matter requires it, for up to six months.

Note that the absence of a majority protest does not compel the legislative body to form the CFD. It retains full discretion either to go forward with the proceedings or not.

If the legislative body determines to proceed, it then adopts the:

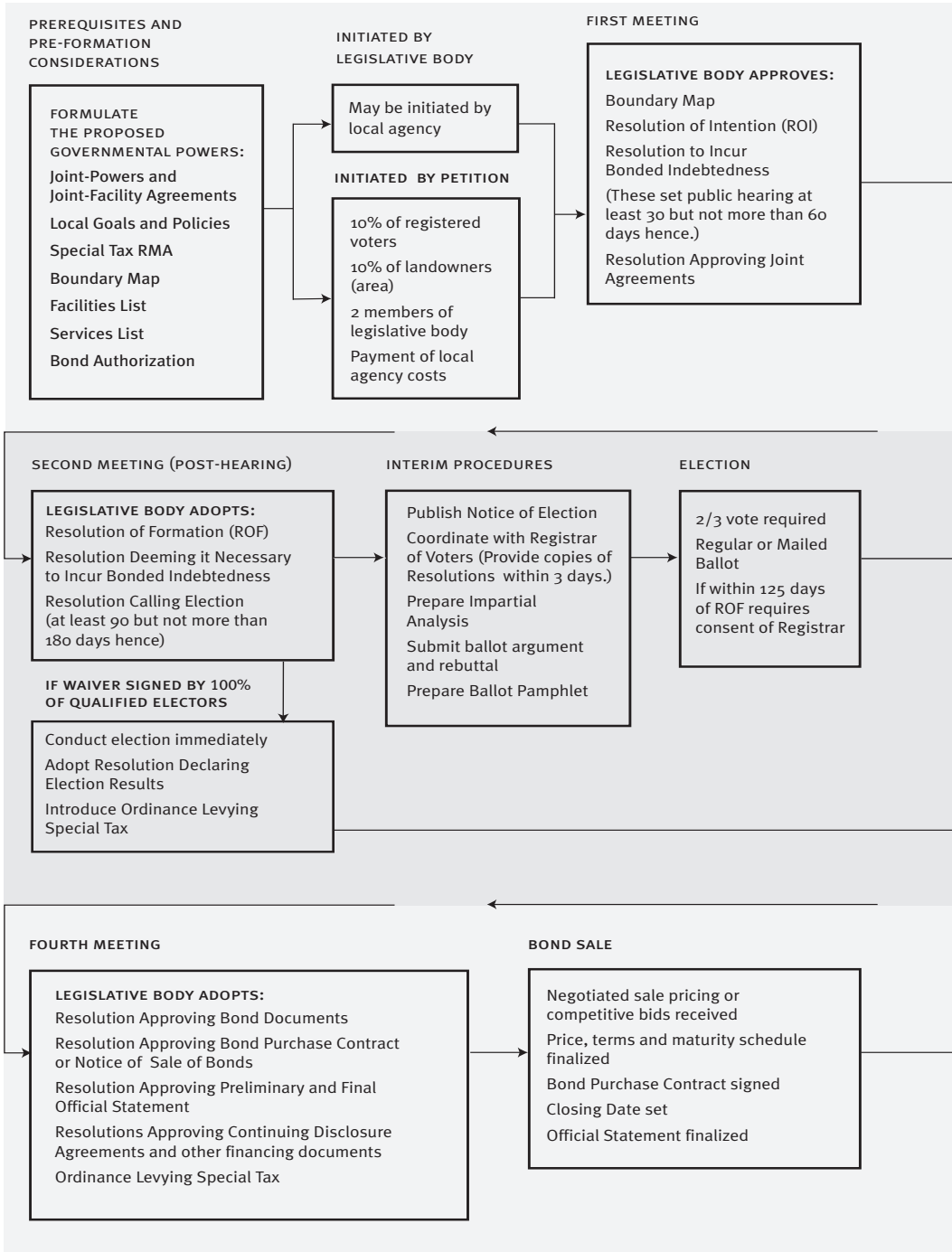
1. Resolution of Formation;

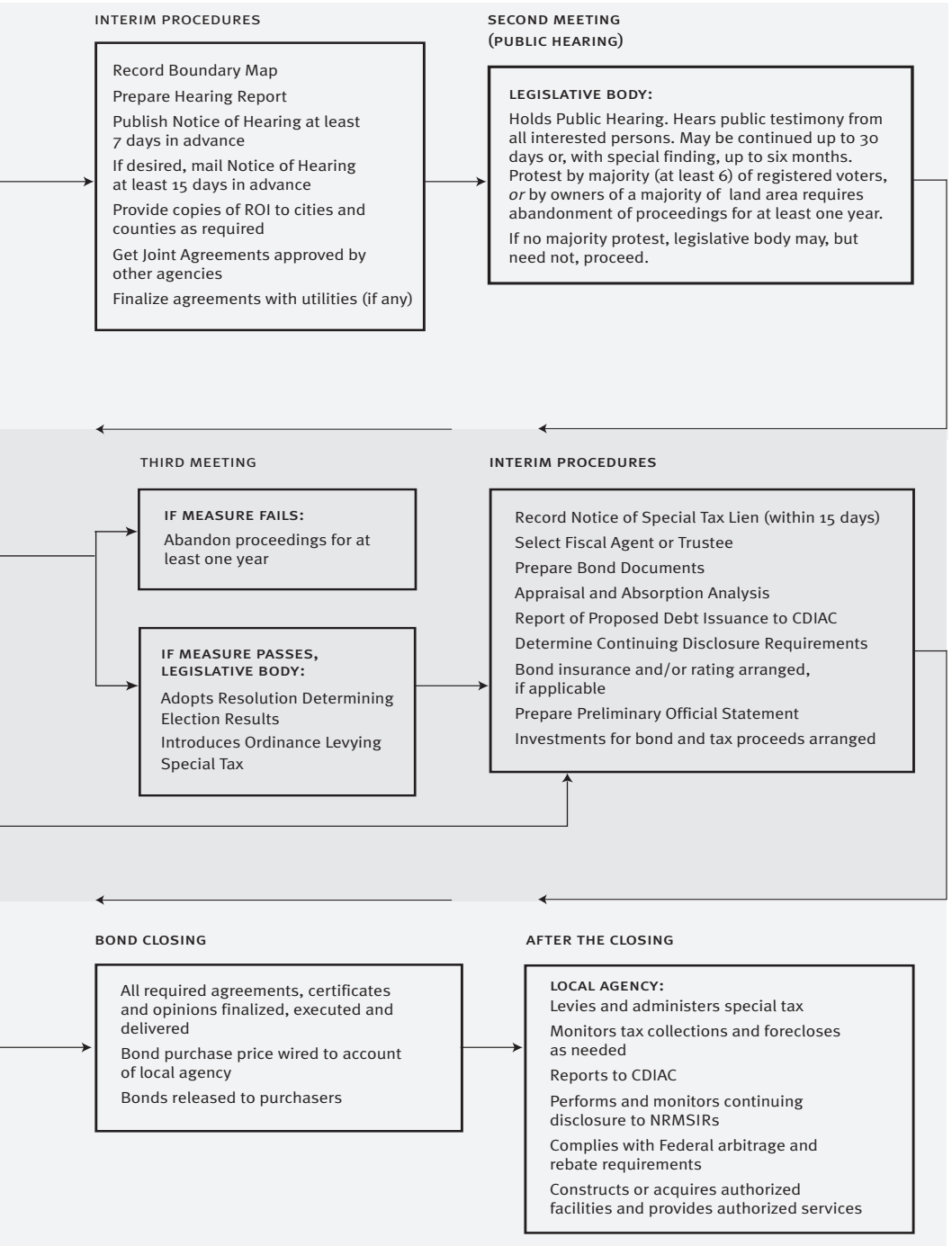
2. Resolution Deeming It Necessary to Incur Bonded Indebtedness;

3. Resolution Calling the Election.

If the election is successful, the Resolution of Formation and the Resolution Deeming It Necessary to Incur Bonded Indebtedness (collectively, the "Formation Resolutions") become the definitive source to which one turns to know what are the governmental powers that have been conferred.

CALIFORNIA MELLO-ROOS COMMUNITY FACILITIES DISTRICT (CFD) TYPICAL FORMATION PROCESS




INTERIM PROCEDURES
Record Boundary Map
Prepare Hearing Report
Publish Notice of Hearing at least 7 days in advance
If desired, mail Notice of Hearing at least 15 days in advance
Provide copies of ROI to cities and counties as required
Get Joint Agreements approved by other agencies
Finalize agreements with utilities (if any)
SECOND MEETING (PUBLIC HEARING)
LEGISLATIVE BODY:
Holds Public Hearing. Hears public testimony from all interested persons. May be continued up to 30 days or, with special finding, up to six months. Protest by majority (at least 6) of registered voters, *or* by owners of a majority of land area requires abandonment of proceedings for at least one year.
If no majority protest, legislative body may, but need not, proceed.
THIRD MEETING
IF MEASURE FAILS:
Abandon proceedings for at least one year
IF MEASURE PASSES, LEGISLATIVE BODY:
Adopts Resolution Determining Election Results
Introduces Ordinance Levying Special Tax
INTERIM PROCEDURES
Record Notice of Special Tax Lien (within 15 days)
Select Fiscal Agent or Trustee
Prepare Bond Documents
Appraisal and Absorption Analysis
Report of Proposed Debt Issuance to CDIAC
Determine Continuing Disclosure Requirements
Bond insurance and/or rating arranged, if applicable
Prepare Preliminary Official Statement
Investments for bond and tax proceeds arranged
BOND CLOSING
All required agreements, certificates and opinions finalized, executed and delivered
Bond purchase price wired to account of local agency
Bonds released to purchasers
AFTER THE CLOSING
LOCAL AGENCY:
Levies and administers special tax
Monitors tax collections and forecloses as needed
Reports to CDIAC
Performs and monitors continuing disclosure to NRMSIRs
Complies with Federal arbitrage and rebate requirements
Constructs or acquires authorized facilities and provides authorized services

CHAPTER SEVEN

The Election

The legislative body also calls the special election and designates the official to conduct the election. It is common, in the case of a landowner vote, to designate the clerk of the legislative body as the elections official. With registered voter elections, the official designated is generally the county elections official, who is usually the county clerk/registrar of voters ("registrar").

In instances where there is a landowner vote, and 100% of the landowners or their authorized representatives waive, in writing, certain formalities and all of the time constraints of the election, the election can be conducted at the Second Meeting of the legislative body immediately after the close of the public hearing. In that event, the clerk of the legislative body can immediately certify the results of the election to the legislative body which can then adopt a Resolution Determining Election Results.

Absent a 100% waiver, however, either the clerk of the legislative body or the registrar is going to have to conduct a formal election. Except as otherwise provided in the Act, the election is governed by "the provisions of law regulating elections of the local agency" that formed the CFD. There is a range of election procedures available depending upon the particular makeup of the CFD in question, and the desired timing. This can run from a registered voter election consolidated with a general election, to a special registered voter election just for the CFD which can, but need not, be conducted by mailed ballot, to a landowner vote conducted by mailed ballot.

If the registrar is to be involved, early communication and coordination with that official is strongly advised. Each county has its own way of doing things, and its own data and computer systems. The goal, for everyone's sake, is to configure the

information that must be presented to the elections department of the registrar's office precisely in the way that office wants to receive it.

The general election law requires that local ballot measures be submitted to the election official at least 88 days before the election. The Mello-Roos Act requires that copies of the Formation Resolutions, the Resolution Calling the Election, the Boundary Map, and a sufficient description of the boundaries of the CFD be provided to the election official within 3 business days after the Formation Resolutions' adoption. The Act also requires that the election be held not less than 90 days nor more than 180 days after their adoption. Nonetheless, if the election is to be held in less than 125 days, the permission of the election official is required. Within those constraints, however, the election may be held on any day, and is not limited to the election days permitted in the California Elections Code. If the county conducts the election it may charge the local agency for the cost of the election, and that can be reimbursed out of Mello-Roos funds if the election is successful.

During this period, and in accordance with the registrar's schedule, the attorney for the local agency (often with bond counsel assistance) prepares the Impartial Analysis. The election official publishes notice of the election, and notice of the deadline for submitting ballot arguments. The proponents submit their ballot argument. They then submit their rebuttal if an argument against the measure has been submitted. The 10-day inspection period on the ballot pamphlet materials is held. The election official prepares, has printed, and distributes the ballot pamphlets and sample ballots.

Bond counsel can assist in conducting landowner, mailed ballot elections, and in coordinating with the registrar for registered voter elections.

CHAPTER EIGHT

Post-Election Actions

If the election is successful, the legislative body is thereby authorized to levy the special tax, but must do so by ordinance. Further, the taxable property must be formally subjected to the special tax lien, and steps must be taken to inform the real estate market and prospective purchasers of the presence of the lien, and of the property's liability for the special tax. These procedures begin with the Third Meeting of the legislative body, which is typically the body's first meeting after the election.

Third Meeting of the Legislative Body

Acting on proceedings prepared by bond counsel, the local legislative body will:

Adopt the Resolution Determining Election Results: This resolution should be adopted as soon as possible after the canvass of returns has been reported to the legislative body.

Introduce the Ordinance Levying the Special Tax: The special tax is required to be levied by ordinance (and if the local agency cannot ordinarily adopt an ordinance, it is empowered to do so for these purposes by the Act). An ordinance is *introduced* at one meeting ("first reading") and may then be *adopted* at a subsequent meeting of the legislative body after its "second reading." The local agency is required to designate an office, department or bureau of the local agency to annually prepare the special tax levy. This must be the same office, agency or bureau that also administers special assessments. The ordinance can make that designation, and direct that office annually to prepare the special tax levy for presentation to the legislative body. The

ordinance can also authorize the legislative body to approve and authorize each annual special tax levy by resolution.

Record Notice of Special Tax Lien

The special tax lien attaches to the property by the recording of the Notice of Special Tax Lien. The law requires that the Notice be recorded within 15 days after the legislative body determines that the tax has been authorized by the voters. The Notice will include a description of the special tax, but is also required to include the name of each owner of each parcel as shown on the latest secured assessment roll. In a large registered voter election that is going to be a very large document. The local agency will need to have someone, either on staff, or a special tax consultant or a CFD administrator (an outside consultant who will administer the CFD for a fee), lined up to prepare and record that notice in a timely fashion.

Assist Seller Disclosure of Special Tax Lien

The recording of the Notice of Special Tax Lien will make title companies aware of the special tax, and they will disclose it in their preliminary title reports. But California law imposes directly on sellers the requirement to disclose the presence of special tax liens to prospective purchasers – sellers may not simply rely on title companies. To assist sellers in making disclosure, the local agency is required under the Act to provide disclosure statements to property owners on request. The agency may charge a reasonable fee for this service, but not in excess of $10. Most CFD Administrators can provide this service for the local agency. The Act imposes an additional and detailed disclosure requirement on *subdividers* of property.

CHAPTER NINE

Issuance of Bonds

Bond Considerations

Credit Quality of the Bonds: As discussed earlier, CFDs can be formed in different contexts. It follows that their bonds can be issued in different contexts as well. What is common to all Mello-Roos bond issues is that the bonds are, through the special tax lien, ultimately secured by real property.

But there is a significant difference between a CFD comprised of vacant, although developable, land owned by a small number of developers (or perhaps only one), and a CFD containing thousands of owner-occupied dwellings. There is not only the obvious difference in the value of the property, but there is also a huge difference in the significance of any one property owner defaulting in the payment of special taxes, and hence in the likelihood that tax delinquencies that do occur could reach a level that would threaten the timely repayment of the bonds. Highly developed property owned by many different landowners can be thought of as a diversification of the bondholders' investment that greatly reduces the risk of default.

Bonds secured by vacant land are sometimes referred to as "dirt bonds." They typically push up against the minimum-required 3-to-1 "value-to-lien" ratio. That is the ratio of the *value* the property would have (ignoring all liens and assuming the presence of the public facilities to be financed by the bonds), and the capitalized amount of all public *liens* on the property, including the lien of the special tax. That capitalized amount is the proportionate share of all public debt appropriately attributable to the property. It is extremely rare for dirt bonds to be rated or insured, and hence they normally bear interest rates that are noticeably higher (at the time

of writing about three-quarters to one and one-half percentage point higher) than triple-A rated (insured) bonds, because of the higher risk they carry.

The bond market knows that rated or insured bonds have been closely looked at by a rating agency or a bond insurer. Some potential purchasers of those bonds may choose to rely on that review.

But dirt bonds have to be evaluated, in the first instance, by the potential purchaser. A potential purchaser must be shown a detailed account of the nature of the community and its demographics (trends in its employment base, population growth, income levels, major employers, etc.), as well as particular information about the security for the bonds – the land within the CFD – such as:

- Its value;
- The total public debt on the property (sometimes referred to as the "direct and overlapping" debt);
- The track record and financial strength of the developers;
- The governmental approvals and permits and conditions for the project;
- The development plans (e.g., what segments of the housing or commercial market are being targeted; how far will the developers carry the project themselves – will they build structures themselves, or will they market lots to merchant or commercial builders?);
- The developers' financing plans for the private improvements;
- How well other developments have done in the vicinity;
- How fast the homes and lots in this development can be expected to sell, and for what prices, given the larger economic climate in the region.

Mello-Roos bonds secured by populated/developed areas, on the other hand, can sometimes be nearly as secure as general obligation bonds. Some have been "A" rated, and many have been triple-A rated because bond insurance was obtained from

triple-A rated bond insurance companies. They thus bear lower interest rates than dirt bonds.

Various Types of Bonds: Most Mello-Roos bond issues include both serial bonds (a definite maturity date for each) and term bonds (exact principal payment date, within a limited span of years, determined by lot) that bear fixed interest rates and, except for the next two paragraphs, this booklet assumes that to be the case. But Mello-Roos bonds can also be issued at variable rates, and as capital appreciation bonds.

In some situations a landowner/developer may wish to have some or all of the bonds issued initially as variable-rate bonds. Issuing variable rate bonds adds complexity and expense to a bond issue, but since variable interest rates are short-term (generally one-, seven-, or thirty-day rates), and hence lower, variable-rate bonds may permit lower debt service payments. As a result, variable-rate bonds may also produce more spendable proceeds for the project within the limitations relating to special tax revenues or property values. Variable-rate bonds usually involve credit enhancement which can itself provide relief from value-to-lien ratio restrictions. Payment and tax-collection procedures are different for variable-rate bonds, and they typically require a substantial credit commitment, and substantial financial strength, on the part of the landowner/developer. As property is developed and sold by the landowner/developer, the portion of the bond issue that is secured by property no longer owned by the developer is usually converted to fixed-rate bonds and then paid and secured in the normal way.

Serial bonds and term bonds generally pay interest on a current basis, semi-annually, commonly on each March 1 and September 1. Sometimes there will be financial reasons to issue capital appreciation bonds, which are sold at a discount and receive no payments of any kind until maturity, when they are paid at full value.

Capitalized Interest: Normally interest payments on the bonds are made every six months. One or two, or even three, of those payments may come due before the local agency will have been able to place the special tax levy on the property tax roll and collect the first installment of special taxes. Therefore it is usual for the bond issue to fund an amount of money for "capitalized interest" that is used to

pay interest on the bonds until special tax revenues are available. Often, even if the tax roll is not a constraint, a developer may want to include capitalized interest (which can be included for up to two years) in order to preserve cash flow during the development phase of the project.

Reserve Fund: The bond market typically demands the establishment of a "reserve fund," into which will be deposited, usually from bond proceeds, the amount of the "reserve requirement." This money is available to keep bond payments current despite delinquencies that may occur in the payment of special taxes. Federal tax law limits the amount of bond proceeds that may be placed in the reserve fund for tax-exempt bonds. It may never exceed 10% of the amount of the bond issue, and in most cases the law requires it to be somewhat less. Dirt bonds typically will need to have the maximum allowable reserve. Bonds secured by developed property may be able to have a smaller reserve and may be able to fund some or all of it by means of an insurance policy, rather than with bond proceeds.

Bond Covenants: The local agency will be required to make certain "covenants" with the bondholders. These commonly include promises:

- To pay principal and interest on the bonds in accordance with their terms;
- Not to issue additional bonds of the CFD (which "dilute" the security for the current issue of bonds, because they share in it) unless and until certain credit quality standards are met (usually involving level of special tax revenues and valuation of the property within the CFD);
- To accomplish the levy and collection of the special tax and to apply the special tax proceeds in accordance with the terms of the bond documents;
- As to the use of bond proceeds:
    - To use the bond proceeds for the authorized purposes;
    - To fund a reserve fund at the level of the reserve requirement;
    - To use the money in the reserve fund to pay debt service on the bonds in the event of tax delinquencies; and
    - To replenish the reserve fund from future tax collections;

- Under specified conditions, to foreclose by judicial action the lien of special tax on delinquent parcels;
- To make periodic reports to the bond market (see "Continuing Disclosure," below) regarding the bond issue; and
- To do all things necessary and proper to preserve the tax-exempt status of the bonds.

Prerequisites for Bond Issuance

Select Fiscal Agent or Trustee: The *fiscal agent* is the firm (normally a bank trust department) that will administer the bonds as registrar and authentication agent, keep the records of who the registered owners of the bonds are, will receive bond payments from the local agency and then, as paying agent, forward those payments, in the correct amounts, to the registered owners of the bonds. A *trustee* will, in addition, hold many of the funds and accounts created for the bond issuance, including the reserve fund, and undertake certain responsibilities to protect the rights of the bondholders as against others, including the local agency. As the bond market prefers a trustee, it is more common.

Prepare Bond Documents: Bond counsel, with input from the underwriter/financial advisor, will draft the provisions for the bonds and their administration. These will primarily appear either within a Trust Indenture or a Fiscal Agent Agreement or a Trust Agreement pursuant to which the bonds are issued.

Prepare Appraisal: It must be determined that the value of the land subject to the special tax is, in theoretical lien-free status (and assuming the presence of the facilities that are going to be provided by the bond proceeds), worth at least three times the amount of all public debt assigned to the land, including the debt represented by the bonds to be sold. There are two permitted exceptions to this requirement. The first is if the local legislative body finds and determines that the bonds do not present any unusual credit risk because of some special circumstance such as credit enhancement or the escrowing of bond proceeds until the needed values are obtained. The second

is when the legislative body finds, by a four-fifths vote of all of its members, that the bond issue should proceed, despite the low value of the property, for specified public policy reasons. In some situations (commonly with developed property) the values of the parcels from the county assessor's rolls will suffice, but when undeveloped land is involved the determination of value will almost always require hiring a qualified appraiser.

Prepare Absorption Analysis: In the development context, the appraiser will often use a "discounted cash-flow analysis."* This estimates the amount and timing of the expenditures the developer will be required to make to complete the development, and then the amount and timing of the sales revenues that can be expected from it. The appraiser then "discounts" the expenditures and revenues "back" to their "present value." In simplified terms, if you know you are going to pay $50 X years from now and receive $100 Y years from now, what is that worth today? To make this calculation, however, the appraiser needs to know how quickly the homes will sell. It needs "market absorption" data to reach its final conclusion, and thus often an "absorption analyst," who can provide this data, must be hired as well.

Make Report of Proposed Debt Issuance to the State: A report of proposed debt issuance must be made to the California Debt and Investment Advisory Commission (CDIAC) at least 30 days before the bonds are sold.

Determine Requirements for Continuing Disclosure: A determination must be made of the types of continuing disclosure the landowners/developers will be required to make. This is discussed below.

Arrange for Investment of Bond and Tax Proceeds: Arrangements must be made for the investment of the bond proceeds pending their use for authorized facilities, and for the investment of the special taxes that are collected pending their use. This area is complicated by the "arbitrage" provisions of the Federal Tax Code.

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* This is not always required. If sufficient sales of bulk development property can be found in the region, the appraiser may be able to use comparable sales as the method to determine value.

There are advisors expert at offering these investments (such as BondLogistix LLC), but the arrangements need to be made.

Obtain Bond Insurance and/or Bond Rating (if applicable): Bond insurance will pay the bond holders if for any reason the local agency does not. If the bonds are able to be rated or insured the underwriter or financial advisor will undertake the task of obtaining the rating and/or insurance. This may, incidentally, include getting a surety bond or insurance policy for some or all of the reserve fund. Sometimes an "underlying rating" (assuming no bond insurance) is obtained from one or more of the rating agencies (most commonly Moody's, Standard & Poor's, or Fitch) either as sufficient in itself, or as an aid to obtaining the best price for bond insurance. Other times bond insurance is sought in the first instance, and then the rating agencies look solely to the bond insurer in rating the bonds. Normally underwriters and financial advisors will obtain competitive bids for bond insurance. The presence of bond insurance requires additional provisions, and may require certain changes, in the bond documents. These must be made by bond counsel in consultation with the insurer.

Prepare the Official Statement: The "Official Statement" (initially in "Preliminary" form) must be prepared.

The Official Statement

The Federal Securities Laws require that all facts material to the evaluation of a security be disclosed to the market before that security may be offered for sale. This is done, formally, by means of the "Official Statement." This document is normally prepared either by counsel that the underwriter hires ("underwriter's counsel"), or by counsel that the local agency hires ("disclosure counsel"). Occasionally it is done by the financial advisor.

It is important to emphasize that irrespective of who prepares the Official Statement, this document must be approved by the legislative body of the local agency and is, in every sense, the local agency's document. It is the document by which the local agency's bonds are marketed to investors and the local agency will be required to certify that it includes all the information it is required to

include, and does not misstate any material fact, or fail to disclose any material fact, in a way that would make the Official Statement misleading in any material respect to a purchaser of the bonds.

The local agency should, nonetheless, seek all appropriate indemnifications, certifications and opinions from others who have some responsibility for the information in the Official Statement. Under some circumstances the local agency may be able to disclaim responsibility for developer information.

Fourth Meeting of the Legislative Body

Despite the designation "Fourth Meeting," actions described here may be taken at one or more meetings of the legislative body.

Approve Bond Documents: The legislative body will adopt a resolution or resolutions:

1. Approving the Indenture;
2. Approving the Bond Purchase Contract (negotiated sale) and authorizing its execution; or the Notice of Sale (competitive sale) and authorizing acceptance of the winning bid; and
3. Approving the Preliminary Official Statement (and authorizing execution of the Final Official Statement), the Continuing Disclosure Agreements, and any other financing documents.

Adopt Ordinance Levying Special Tax: The legislative body will also adopt the previously introduced Ordinance Levying Special Tax.

Manner of Sale of Bonds

The more common method of selling Mello-Roos bonds, particularly "dirt bonds," is by private (or negotiated) sale. But Mello-Roos bonds, particularly when they are rated, are also sold by public (or competitive) sale.

The Mello-Roos Act requires that bonds be sold at *public* sale *except* that if no bids are received, or if the local agency determines that private sale would result in lower overall cost, the bonds may be sold at private sale. This gives the local agency the freedom to decide in each case which method it prefers.

In virtually every instance the bonds are sold to an underwriter. The underwriter is able to pay cash to the local agency for the entire bond issue. The underwriter then sells the bonds to investors (institutions and individuals) for more than it paid for them, thus earning a profit. In most instances underwriters buy the bonds from the public agency at a discount (called the "underwriter's discount"), and then sell them to their customers at "par," or face value, although this varies.

In a negotiated sale the local agency first selects an underwriter, with which it then negotiates the price of the bonds, their interest rates and the maturity schedule. Sometimes a local agency will hire a financial advisor to assist it with the negotiations. The underwriter typically does some pre-marketing of the bonds and then shares that information (except its customers' identities) with the local agency. A Bond Purchase Contract is then signed.

In a competitive sale, the local agency hires a financial advisor. The financial advisor prepares a Notice of Sale setting forth the terms and maturity schedule of the bonds to which underwriters respond by submitting sealed bid sheets containing purchase prices and interest rates. The Notice of Sale and the signed bid sheet of the winning bidder comprise the contract.

Bond Closing

A "closing" date will be set when all of the documents will be finalized and executed. This date is normally about two weeks after the Bond Purchase Contract is signed or the bonds are awarded. If applicable, bond insurance policies and bond ratings are finalized. Certificates validating and memorializing the fulfillment of required conditions are signed and delivered. Written opinions of bond counsel, disclosure counsel, and agency counsel are obtained; as are written certificates of local agency officers and consultants. The local agency receives the purchase price of the bonds, and the bonds are released to the purchasers. Bond counsel then prepares "Closing Transcripts," sets of certified or original closing documents, for the local agency and certain other participants.

CHAPTER TEN

After the Bond Closing

The bond closing represents, in one sense, the completion of the Mello-Roos process. After all, it was to raise money for public works that the whole process was undertaken, and that has now been accomplished. But the local agency will have taken on a number of responsibilities that continue after the bonds are issued. Some of the more important are listed below:

Annual Reporting to CDIAC

Annual reporting to the California Debt and Investment Advisory Commission is required of basic financial information about the bond issue:

- The principal amount of bonds outstanding;
- The balance in the reserve fund;
- The balance in the construction fund;
- The balance in the capitalized interest fund (if any);
- The level of special tax delinquencies and progress of foreclosure actions against delinquent parcels;
- The assessed value of all parcels subject to the special tax.

Material Event Reporting to CDIAC

Immediate reporting (within 10 days) to CDIAC is required whenever:

- there is any shortfall in the payment of either principal of or interest on the bonds; or
- the reserve fund is drawn down below a level specified by CDIAC to make payments on the bonds. (CDIAC has yet to specify a level, so the unwritten practice is to report if the reserve fund is drawn down below the reserve requirement.)

Continuing Disclosure

The underwriter must comply with Rule 15c2-12 promulgated by the Securities and Exchange Commission ("SEC") under the Securities Exchange Act of 1934. The rule requires the underwriter, prior to purchasing the bonds, to obtain a written undertaking from the local agency, or from an "obligated person," that certain continuing disclosure with respect to the bond issue will be made to all Nationally Recognized Municipal Securities Information Repositories ("NRMSIRs"), and to any appropriate state information depositories ("SIDs"). Currently there are no SIDs in California. There is now a "central post office" to which the information can be sent (and it can be sent electronically) which will, in turn, distribute the information electronically to all NRMSIRs and applicable SIDs.

There are two kinds of disclosure required by Rule 15c2-12. There must be "annual financial information" from those whose financial information or operating data was presented in the Official Statement and from persons or entities meeting, in the future, the criteria that caused the original financial information or operating data to be presented. These persons or entities meet the definition of "obligated person." There also must be immediate disclosure of "material events" with respect

to the bond issue itself – for such events as failure to make payments on the bonds, draws on the reserve fund, significant sales of property, and failure of an obligated person to make continuing disclosure according to its agreement.

The developer has the best access to its own "annual financial information," and the local agency has the best information with respect to most "material events." But there is some crossover. The local agency may be better able to report periodically on the progress of the facilities, and the developer can better report a material sale of its property. Therefore, the underwriter almost always requires written undertakings from *both* the local agency and the developer. Normally, developers will be required to provide annual (or, increasingly, *semi*-annual) financial and operating data. If developers make a bulk sale of property, they remain obligated (and subject to liability under the securities laws) unless they obtain a commitment from the purchaser to take over the disclosure obligation.

Clearly not every property owner is an obligated person. There is no formal ruling with respect to when a property owner is an obligated person, and the determination depends heavily on the specific facts and circumstances of each financing. Some in the industry have settled on a 20% level. That is, if a property owner owns property that makes it potentially responsible for 20% or more of the special taxes, it is an obligated person. This cannot be viewed as a universal rule however, and the underwriter, in consultation with counsel, will need to determine what is appropriate in each case. If a percentage threshold is used, once the property owner is no longer potentially responsible for that level of special tax, or the development stage to which the developer planned to develop the property as described in the Official Statement has been reached, most continuing disclosure agreements relieve the developer of further continuing disclosure obligations.

Disclosure will normally be made to a "dissemination agent" selected by the local agency (and which may, indeed, *be* the local agency) who will forward the information to the NRMSIRs. As mentioned, there is now a procedure for doing this electronically through a "central post office."

Levying the Special Tax

The local agency must, pursuant to its ordinance and its covenant with the bondholders, annually levy the special tax. The levy needs to be prepared in the proper media and at the proper time to be presented to the county auditor for placement on the county tax rolls. Generally the deadline is August 10. Preparing the special tax levy can be a substantial task if the number of parcels in the district is large, or the information required by the RMA to determine the proper tax for each parcel is difficult to obtain. Sometimes a substantial database needs to be maintained to do this work. The designated office of the local agency may do the work itself, or it may hire an outside CFD administrator.

Coordination with County Auditor

It is important to coordinate with the county auditor well in advance of the August 10 deadline for levying the special tax. Again, every county is different, and the goal is to present the special tax levy to the county auditor's staff in the format and media that they can best use. The levy should be presented to the county as a list of parcels with the specific dollar amount of special tax listed for each parcel. Then there is no need to refer to the county's tax rate areas, and no filing is required with the State Board of Equalization or the county assessor.

Responding to Taxpayer Inquiries

The same office designated to prepare the annual special tax levy must also be designated to respond to taxpayer inquiries about the special tax, to provide estimates of future special taxes if asked, and to provide disclosure statements, on request, to sellers of property to assist them in disclosing the special tax to prospective purchasers. As mentioned earlier, the office may charge a reasonable fee for this latter service, but not in excess of $10.

Monitoring Special Tax Collections and Instituting Foreclosures

If bonds have been issued, the local agency will have the responsibility to monitor tax collections, and to fulfill any covenants it has made to the bond holders in that regard. Typically this will include the obligation, under circumstances specified in the bond documents, to request the county to remove delinquent special taxes from the secured roll, and then to institute legal proceedings to foreclose the lien of special tax. The local agency has the right to file suit as early as one day after a tax delinquency (and as late as four years after the final maturity of the bonds). The question is: what will it *obligate* itself to do?

To foreclose on a developer is one thing. To foreclose on a homeowner is quite another. A delinquency on the part of the developer is likely to be very significant. A delinquency on the part of a single homeowner is likely to be insignificant. The covenant the local agency makes to foreclose should recognize the difference between these two situations. An appropriate balance can be struck that will protect the bondholders without requiring the local agency to foreclose every time a resident misses a tax payment.

An agency does not want to obligate itself to foreclose before it knows of a delinquency, which generally takes a month or two. It is generally inefficient for a local agency to obligate itself to foreclose before the second installment has also become delinquent. One suit is better than two, and perhaps the property owner will pay by April 10 to avoid the second penalty.

In the event that foreclosure is required, the local agency would be well-advised to have made arrangements with a foreclosure counsel in advance so that any suits required can be brought within the time promised to the bond holders.

Note that if bonds are not outstanding, the local agency has no authority from the Act to judicially foreclose the lien of special tax. In that event, if the local agency wants foreclosure power (and under some circumstances it may) it will have to get the property owners to agree to it by contract during the formation process.

Federal Tax Code Compliance (Yield Restriction, Arbitrage, and Rebate)

The Federal Tax Code requires outright yield restriction on some funds and arbitrage rebate with respect to others. If funds are invested at yields higher than the yield on the bonds, arbitrage is earned, and the excess earnings must be rebated to the Federal Government at least every five years and within 60 days of the final maturity of the bonds. Normally the local agency will hire an expert consultant, such as BondLogistix LLC, to arrange appropriate yield-restricted investments, and to perform the highly technical arbitrage and rebate calculations.

County Responsibilities

The local county, whether or not it is the local agency, will have on-going responsibilities with respect to the CFD. It also may charge for its costs in fulfilling those responsibilities, and those charges may be paid from special tax proceeds. The county's responsibilities include the following:

- Receive the special tax levy and post it to the property tax rolls;
- Collect and enforce payment of property taxes in the normal way including proportionate sharing of penalties and interest;
- Remit the special tax proceeds to the local agency;
- Report delinquencies to the local agency "at the close of each tax collection period, promptly;"
- Remove delinquent special taxes from the secured roll when requested to do so by the local agency; and
- Not ever permit payment of the regular tax bill without payment of special taxes included (unless the special taxes have been removed from the roll by request of the local agency).

CHAPTER ELEVEN

Other Features of Mello-Roos

This booklet is not an exhaustive treatment of Mello-Roos. Resort to legal counsel experienced in its use is strongly recommended. But there are some additional features of Mello-Roos that may be of interest.

Refundings

If local agencies can save their taxpayers money, without reducing the resources available to the local agency, they will generally be quick to do so. One way this can happen is if bonds can be refinanced at a lower interest rate – because the lower interest rate will translate into lower special taxes. Such a refinancing of a bond issue is called a "refunding." It involves selling new bonds at the lower interest rate, and then using the proceeds of the new bonds to pay off the old, higher-interest-rate bonds. There are two prerequisites for a Mello-Roos refunding: the refunding must realize savings in total debt service payments over the life of the bonds, and the special taxes which were levied to retire the old bonds must be reduced accordingly.

Lower interest rates could become available because interest rates decline generally, or because the quality of the security for the bonds improves, or both. Recall the earlier discussion of "dirt bonds" under the heading "Credit Quality of the Bonds." The situation with dirt bonds changes over time. As homes are built, sold and occupied, the value of the security for the bonds increases and they may reach the point where they can be rated and/or insured. That will normally give rise to a refunding opportunity.

Some investors like to purchase the "dirt bonds" because of their higher interest rates, expecting the security for the bonds to gradually improve as development goes forward. The investor then ends up with a very secure bond, but with a higher interest rate than is normally available for similar risk. The bonds thereby increase in value, and if they remain outstanding the investor can then sell them at a premium and realize a capital gain. Most bondholders prefer not to have their bonds refunded, but this can be especially true of the holders of dirt bonds.

The market compromises. If there were no reward for the purchasers of dirt bonds, it would be more difficult to sell them, and they would carry still higher interest rates. Therefore, Mello-Roos bonds (whether dirt bonds or not) often have a period of what is referred to as "call-protection." That is, the bonds cannot be "called" (paid early), for a period of years. Then, frequently, for another year or two, there is a declining "call-premium" (prepayment penalty) that is paid to the bond holders if their bonds are paid early.

If the "old" (also called "refunded") bonds are paid off and retired within 90 days after the "new" ("refunding") bonds are issued, this is called a "current refunding" and such a refunding may be done as often as savings can be realized.

But often, because of the call protection, the "old" bonds cannot be retired in time to have a current refunding. A refunding in that case is called an "advance refunding," and may be done only once under Federal tax law.

With the usual advance refunding, the proceeds of the new bond issue, after paying costs of issuance, are placed in an escrow and invested in Federal Government securities. The maturities of the investments are timed so that the escrow will generate the cash to make each scheduled debt service payment on the old bonds when it is due, and then to pay off the entire old bond issue as soon as the period of call protection expires. (There are also "crossover" advance refundings that have a somewhat different structure and are beyond the scope of this booklet.)

Once that escrow is properly established, and there is a certification from a nationally recognized independent certified public accountant that the escrow will produce the necessary cash at the proper times, the refunded bonds are said to be

"defeased." This, pursuant to the bond documents under which the refunded bonds were issued, relieves the local agency of further obligation toward the holders of those bonds. The owners of the refunded bonds no longer look to the local agency, or to the special taxes, or to any real property security, for the repayment of their bonds. Instead, they now look solely to the defeasance escrow. Accordingly, the local legislative body no longer needs to apply any special tax revenue toward the defeased bonds but, instead, now applies the special tax revenue to the refunding bonds.

Refunding bonds do not count against the bond authorization of the CFD, even if the original bonds cannot be retired immediately and even if the new bonds are issued in a higher principal amount.

Annexation of Territory

Territory may be annexed to an existing CFD, or it may be designated for annexation in the future. In that process, additional facilities and services may be added to those already authorized, but the additions may not increase the maximum tax rate in the existing district. The proceedings to annex, or to designate property for annexation in the future, are virtually identical to the proceedings to form the district. The major difference is that at the public hearing, the majority protests that will block the proceedings may come from landowners or registered voters in the area to be annexed, or the area designated for annexation in the future (upon which event such property would probably simply be dropped from the proceedings), or the existing district, although the election will be held only in the area to be annexed. Any parcel of property included in an area designated for annexation in the future, as to which there was no majority protest, can complete annexation thereafter simply through the unanimous consent of its owners without further hearing or election.

The area to be annexed must generally be taxed the same as the existing district, but may be subjected to an additional "catch-up tax" at the time of annexation. This would have to be included in the RMA for the annexation area, and its purpose would be to equalize payments from property benefiting equally from the previously authorized public improvements.

Amending the Conferred Powers

There is also a procedure for *amending* the package of powers that have been conferred on the local legislative body. This can include both increasing or reducing those powers. This procedure is also similar to the formation procedure, and is initiated by a Resolution of Consideration that describes the proposed changes and sets a public hearing. The legislative body can initiate the proceedings on its own motion, or it can be *compelled* to adopt the Resolution of Consideration by a sufficient petition (25% of the registered voters or the owners of 25% of the land within the CFD).

Again, the petition can only push so far. After the public hearing the legislative body has the discretion to refuse to continue the change proceedings. Further, if debt is outstanding, the law will not permit the legislative body to adopt a Resolution of Consideration to lower the special tax, even in the face of a petition, unless the legislative body determines that the proposed reduction or termination of the special tax would not interfere with the timely retirement of that debt. If the legislative body determines to proceed, it requires a two-thirds vote of the qualified electors (determined as of the time of the hearing) to approve the change.

Use in School Mitigation Agreements

State law empowers school districts to impose limited "school developer fees" on new development in order to help mitigate the impact of such development on the need for school facilities. The State program of funding schools through a combination of these developer fees and State school bond funds has a long history of being a "good try," but in most instances is simply not able to provide adequate school facilities on a timely basis.

This creates some uncertainty. School districts want to be able to meet the needs of their students, and developers want to be able to assure potential home buyers that there will be good schools available to serve their children, but there is no single, clear path to getting there.

What everyone wants to avoid is a situation where the developers accuse the school districts of trying to get more than they are entitled to; and where the school districts are telling the public that if they buy the developers' new homes, there will not be adequate school facilities for their children.

The situation in every community is different, but frequently it is in the best interests of both developers and school districts to craft a mitigation program that is more finely tuned to the local circumstances than the basic State developer fee program can be. The developers can allow their projects to take on more of an obligation for school facilities than the legal minimum, and in return the school districts can provide low interest financing for that obligation that is fully assumable by the homebuyer. It can be an advantage to a developer not to have to come out-of-pocket for the developer fee at the time of building permit.

Whatever developers and school districts can agree to can be memorialized in a School Mitigation Agreement. The basic need of the developers from the mitigation agreement is the assurance that they will get the certifications they need from the school districts on a timely basis to proceed with their development, and that their properties will not be asked to pay anything *more* for school mitigation (other than district-wide measures that would affect everyone, such as general obligation bonds). The basic need of the school districts from the agreement is that their school facility needs will be met on a timely basis.

The means by which both of these needs are met can vary enormously. The agreement can be as simple as an agreement for higher fees. Or it can involve the dedication, or price agreement on the purchase, of new school sites. Agreements can involve the provision of temporary facilities on an interim basis, the order in which the needed schools will be built, developer-built schools, and anything else that will meet the mutual needs of the parties. And, of course, often these agreements will include the details of a community facilities district that the parties will jointly form to finance the new schools. This is an area where flexibility and creativity can make a difference, and Mello-Roos is a useful tool to have available.

As an example, some developers might prefer to pay a portion of their school impacts in cash in order, in effect, to "buy down" the amount of on-going special

tax, thus making their homes more attractive to purchasers. Mello-Roos can recast this payment as an element of the special tax, payable only once at, say, close of escrow (rather than at building permit) thus helping developer cash-flow.

Timetables

Every situation is different and may contain circumstances that change the usual course of events. With that disclaimer in mind, consider that the key step in the timing of any Mello-Roos proceedings is producing the "completed package" of proposed governmental powers. The time to get to that point can take anywhere from a few days to a few years.

With a registered voter CFD, or a landowner vote without 100% waivers from the landowners, and if the local agency is willing to diligently push the process along, the package of proposed authorities should be finalized at least five months before the election day.

Where 100% of the qualified electors will sign waivers of the election formalities and their time periods, it is possible to complete the election within two months of the "completed package."

Bonds can usually be issued within 1-3 months of a successful election.

Contact Information for

Members of Orrick's Special Tax and Assessment Group

SAN FRANCISCO	TELEPHONE	E-MAIL
Daniel Bort	415-773-5438	dbort@orrick.com
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Sam Sperry	415-773-5467	samsperry@orrick.com
John Hartenstein	415-773-5555	hartenstein@orrick.com
Chas Cardall	415-773-5449	ccardall@orrick.com
LOS ANGELES		
Greg Harrington	213-612-2280	gharrington@orrick.com
Bill Bothwell	213-612-2403	wbothwell@orrick.com
Don Field	213-612-2287	dfield@orrick.com
Megan Hamilton	213-612-2387	mvhamilton@orrick.com
Larry Sobel	213-612-2421	lsobel@orrick.com
Winnie Tsien	213-612-2336	wtsien@orrick.com
SACRAMENTO		
Ron Lee	916-329-4932	rlee@orrick.com
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ORRICK, HERRINGTON & SUTCLIFFE LLP publicfinance@orrick.com WWW.ORRICK.COM
HONG KONG LONDON LOS ANGELES MILAN MOSCOW NEW YORK ORANGE COUNTY
PACIFIC NORTHWEST ROME PARIS SACRAMENTO SAN FRANCISCO SILICON VALLEY
TAIPEI TOKYO WASHINGTON DC

Groveland Community Services District

BOARD MEETING AGENDA SUBMITTAL

TO: **GCSD Board of Directors**

FROM: **Peter Kampa, General Manager**

DATE: **July 20, 2020**

SUBJECT: **Agenda Item 4B: Discussion and Possible Action Regarding a Response to the Draft Environmental Impact Report for the Terra Vi Lodge Yosemite Project**

Agenda Item 4C. Discussion and Possible Action Regarding a Response to the Draft Environmental Impact Report for the Under Canvas Project

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RECOMMENDED ACTION:

Staff recommends the following actions (separate actions please):

I Move to Direct Staff to Submit the Response Letter to the County Regarding the Draft Environmental Impact Report for the Terra Vi Lodge Yosemite Project as Drafted (or Amended)

I Move to Direct Staff to Submit the Response Letter to the County Regarding the Draft Environmental Impact Report for the Under Canvas Project as Drafted (or Amended)

BACKGROUND:

The District provides water, sewer, fire and park/rec services within its boundaries, and fire/emergency response services to a specified area outside of its statutory boundaries under the Automatic Aid/Mutual Aid Agreement with the Tuolumne County Fire Service Providers. Both the Aid/Mutual Aid Agreement and a zoomed in version of the Agreement Addendum B is included with this agenda for reference.

The District received notification of application for the above referenced projects from the Tuolumne County Community Development Department. The District requested notification of the preparation of environmental documents for, and any public hearings regarding the project. The District received and reviewed the Notice of Preparation of a Draft Environment Impact Report (DEIR) for the Under Canvas Project on June 18, 2019, and the Terra Vi Lodge Project on November 15, 2019. District staff further reviewed the DEIRs dated June 2020 for both of the above projects.

In review of the projects' DEIR, staff also reviewed District adopted policies, procedures and fire department deployment standards, Fire Service Master Plan 2020, and various agreements including the Automatic Aid/Mutual Aid Agreement with the Tuolumne County Fire Service Providers. District staff also consulted with legal counsel and professional consultants specializing in development of revenue measures for fire departments. The DEIR response letters for both projects were developed in consideration of the thorough review of the documents and consultations mentioned above and will be delivered by legal counsel before the end of the day.

Pursuant to the Notice of Availability of the DEIR for the Under Canvas project, comment letters are due by June 20, 2020, and the comment period for the Terra Vi Lodge Project ends on Jun 30, 2020. It is recommended that both letters be approved and submitted simultaneously today.

ATTACHMENTS:

1. Automatic Aid/Mutual Aid Agreement, Tuolumne County Fire Service Providers
    a. Addendum B Response Area Map
    b. GCSD Automatic Aid/Mutual Aid Response Area (from Addendum B)
2. Location Map, Terra Vi Lodge
3. Location Map, Under Canvas
4. DEIR response letters for (each) the Terra Vi Lodge and Under Canvas Projects to be delivered separately during or after the meeting before the end of July 20, 2020

FINANCIAL IMPACT:

None for submittal of the response letters

AUTOMATIC AID/MUTUAL AID AGREEMENT
TUOLUMNE COUNTY FIRE SERVICE PROVIDERS

THIS AUTOMATIC AID/MUTUAL AID AGREEMENT (hereinafter referred to as "Agreement") is entered into by and between the following Parties: Tuolumne County through its Fire Department, Columbia Fire Protection District, Mi-Wuk Sugar Pine Fire Protection District, City of Sonora through its Fire Department, Tuolumne Fire District, Groveland Community Services District through its Fire Department, Jamestown Fire Protection District, Twain Harte Community Services District through its Fire Department, California Department of Corrections and Rehabilitation through ~~its~~ the Sierra Conservation Center Fire Department, Strawberry Fire Protection District (individually, "Department"; collectively, "Departments").

WHEREAS, the Parties hereto are geographically located in proximity to each other within the County of Tuolumne; and

WHEREAS, it is to the Parties' mutual benefit that each render reciprocal supplemental assistance in the event of fire or other local fire department related emergencies of a type common to both parties not covered by or within the scope of the California Emergency Management Agency and Civil Defense Master Mutual Aid Agreement, but constituting so-called day-to-day automatic aid arising out of convenience rather than out of extraordinary necessity.

NOW THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

I. OPERATIONAL RESPONSE OF AUTOMATIC AID

The assistance to be rendered pursuant to the Agreement is to be supplementary in nature and the extent of the aid to be furnished is subject to the exercise of discretion on the part of the providing party in order that protection of lives and property within the jurisdictional limits of the providing party shall not be impaired. A written Operational Response Plan (Addendum A) is attached and incorporated by reference into this Agreement. This Plan includes specific boundaries of response, emergency response guidelines, jurisdictional responsibility, communications, and resource availability. In the event of a conflict between this Agreement and Addendum A, the provisions of this Agreement control.

II. COMMAND AUTHORITY

A. <u>Responsible Jurisdiction to Have Command Authority</u>

When a Department responds auto-aid into the neighboring jurisdiction under this Agreement, the Incident Commander of the responsible jurisdiction shall be in command of all staffing and equipment committed to the incident; however, the first officer at the scene will be in command even if it is not their jurisdiction. Command will then be reasonably passed to the first officer at the incident from the responsible jurisdiction.

B. <u>Judicious Use of Personnel and Equipment</u>

It shall be the responsibility of the Incident Commander of the responsible jurisdiction to utilize the staffing and equipment from the jurisdiction providing aid only to the extent that is required to bring the emergency under control.

C. Order of Release

The staff and equipment from the jurisdiction providing aid shall be the first released from the incident.

III. REPORTS

The responsible jurisdiction shall be responsible for completing all required reports, including, but not limited to, reports mandated by local or state government.

IV. COMPENSATION

All services provided by any Department under this Agreement shall be performed without monetary compensation. The mutual advantages, protections, and services afforded by this Agreement are mutually agreed to be adequate compensation to all jurisdictions.

V. LIABILITY/HOLD HARMLESS

Nothing in this Agreement is intended to affect the legal liability of any party by imposing any standard of care different from the standard of care imposed by law. Each party shall bear its own exposure for worker's compensation for its own personnel while furnished to another party or likewise.

Except as expressly stated otherwise herein, the provisions of Government Code section 850.6 shall apply in the performance of providing aid under this Agreement.

1. Personnel: Employees provided in an automatic or mutual aid response shall be considered employees of the party providing them although overall command authority remains with the incident commander.

2. Private Property Damage: The Party receiving aid under this Agreement agrees to indemnify the providing party against claims, demands, loss, costs, and liability for property damaged or destroyed as a result of operations provided at the scene of any incident as a result of providing aid under this Agreement except in those cases where the actions/inactions of the providing Party or its employees, agents, or volunteers providing the aid constitute gross negligence or willful misconduct.

3. Apparatus Damage: Notwithstanding Section V.2 above, each Party providing aid under this Agreement assumes all responsibility for damage to or destruction of its own property, including, but not limited to, emergency apparatus and assigned equipment responding to, at the scene, or returning from aid provided under this Agreement.

4. Personal Property: The Party receiving aid shall NOT be responsible or liable for the loss, theft, damage, or destruction of personal property of persons who are providing aid under this Agreement as an employee of a providing Party.

VI. AGREEMENT NOT FOR BENEFIT OF THIRD PARTIES

This Agreement shall not be construed as, or deemed to be, an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of

action hereunder for any cause whatsoever. Any services performed or expenditures made in connection with this Agreement by any party hereto shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the jurisdiction which are situated within the respective jurisdictions defined herein.

VII. TERM

This Agreement shall become effective as to each Party when approved or executed by that party and shall remain operative and effective as between each and every Party that has executed this Agreement until participation in this Agreement is terminated by that Party. The termination by one or more of the Parties of its participation in this Agreement shall not affect the operation of this Agreement as between the other parties who have executed this Agreement.

Any Party to this Agreement may withdraw from participation, at any time, by serving a 30-calendar day notice in writing to all of the other Parties. The thirty (30) calendar day notice period shall commence with the sending of the notice.

VIII. AMENDMENTS TO AGREEMENT

A. This Agreement and any Addendum to this Agreement contains all of the terms and conditions agreed to among the parties. Except as otherwise specified, this Agreement or any Addendum to this Agreement shall not be amended or altered without the written consent of the parties.

B. Revisions to Addenda A or B may be approved upon the mutual written consent of the authorized representatives of the parties as listed in Addendum A.

IX. EXCLUSIONS

Any requests for aid <u>not</u> covered in this Agreement shall be handled under California Emergency Management Master Mutual Aid.

X. NOTICE

Any and all notices, reports or other communications to be given under this Agreement shall be given to the persons representing the respective parties as provided in Addendum A.

XI. SOLE AGREEMENT

This Agreement is intended by the parties hereto as a final expression of their understanding, with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and shall supersede all prior Mutual-Aid Agreements between the Parties. This Agreement shall also supersede any and all other prior contemporaneous agreements and understandings, oral or written, in connection therewith.

XII. ENFORCEABILITY AND SEVERABILITY

The invalidity or enforceability of any term or provisions of this Agreement shall not, unless otherwise specified, affect the validity or enforceability of any other term or provision, which shall remain in full force and effect.

XIII. COUNTERPARTS

This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

[signatures follow on next page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as the day and year first hereinabove written.

County of Tuolumne Karl Rodefer, Chair Date Board of Supervisors	**City of Sonora** Ron Stearn, Mayor Date City Council
Tuolumne Fire District Ronald Caperton, Chair Date Board of Directors	**Twain Harte Community Services District** Tom Trott, General Manager Date
Mi-Wuk Sugar Pine Fire Protection District John Johnson, President Date Board of Directors	**CDCR Sierra Conservation Center** Joel Martinez, Warden (A) Date
Columbia Fire Protection District Stan Steiner, President Date Board of Directors	
Groveland Community Services District Jon Sterling, General Manager Date	**Jamestown Fire Protection District** Robert A. Hickey, Sr., President Date Board of Directors
Strawberry Fire Protection District Lee Dempsey, President Date Board of Directors	
APPROVED AS TO LEGAL FORM: TUOLUMNE COUNTY COUNSEL **By**	

ADDENDUM A
OPERATIONAL RESPONSE PLAN

Automatic/Mutual Aid Response

Operational Response Plan

A. Response Boundaries

Departments shall respond into those areas identified by their specific color on the attached map (Addendum B). The concept and practice of dispatching the closest, most appropriate resource to any and all emergencies will be utilized, and without regard to jurisdiction or statutory responsibility of either the resource dispatched or the agency wherein the incident occurs.

B. Type of Incidents

Automatic aid shall be utilized whenever there is an incident that requires a code three emergency response. Examples include the following incidents, but are not limited to:

1) Medical Emergencies

2) Vehicle Accidents

3) Vehicle Fires

4) Vegetation Fires

C. Type of Response

Tuolumne County Fire Service Providers automatic aid response shall consist of one engine company and/or truck company with a minimum of two person staffing, responding into the area delineated and identified in color on the map. See Addendum B

D. Guidelines Governing Response and Commitment to an Emergency

1) Immediate emergencies that require the use of red lights and sirens by responding fire vehicles shall be a part of this Agreement. Non Immediate calls such as public service assists, post fire investigations, and other responses that do not require the use of red lights and sirens shall not be a part of this Agreement.

2) When both jurisdictions are responding to an emergency along a common border, and jurisdictional responsibility has been identified by arriving units, the jurisdiction providing aid in accord with this Agreement shall work under this direction of the responsible jurisdiction.

3) The jurisdiction providing aid shall remain on the scene of the emergency until released by the incident commander of the responsible jurisdiction. Such release shall be an expeditious as possible.

4) It shall be the responsibility of the incident commander on the scene to summon additional personnel and equipment if needed to handle the emergency.

5) The incident commander on the scene will determine the need for continued response by other dispatched units.

6) The Incident Command System will be used in the management /mitigation of all incidents.

7) The jurisdiction providing aid to an emergency shall meet applicable State and Federal standards (Title 8 and Title 22).

E. Communication

The San Andreas Emergency command center (ECC), responsible for dispatching within the jurisdiction of the incident, will be the center for all ordering and communications. The Command and Tactical Frequencies will be identified by the ECC. Any radio traffic (report on conditions, cancellation of resources, resource requests, etc.) will be done through the ECC.

Tuolumne County Radio Frequencies

- TCU Local Net – RX -151.1750, TX – 159.4500
- Tuolumne Command – RX – 151.1300, TX – 158.6925
- CDF TAC 2 – 151.1600
- CDF TAC 5 – 151.2500
- Tuolumne TAC – 155.4900

F. Commitment to Joint Training

All parties to this Agreement shall schedule and participate in joint training exercises. The training exercises shall be mutually agreed upon subject matter, times and locations to ensure that optimum performance levels are maintained.

Authorized Representatives:
As provided in Section VIII(B) of the Agreement, the following individuals are authorized to approve written amendments to this Addendum A for their respective Department. Any and all notices, reports or other communications to be given to any party shall be given to the persons representing the respective parties at the following addresses:

Party:	**Tuolumne County Fire**
Address:	18440 Striker Court
City:	Sonora
State:	CA
Zip:	95370
Phone:	209-533-5100
Fax:	209-533-5103
Email:	Josh.White@fire.ca.gov
Authorized Representative Name:	Josh White
Party:	**City of Sonora**
Address:	201 S. Shepherd Street
City:	Sonora
State:	CA
Zip:	95370
Phone:	209-532-7432
Fax:	209-532-5936
Email:	firechief@sonoraca.com
Authorized Representative Name:	Aimee New
Party:	**Groveland CSD**
Address:	18966 Ferretti Rd.
City:	Groveland
State:	CA
Zip:	95321
Phone:	209-533-5100
Fax:	209-533-5103
Email:	Josh.White@fire.ca.gov
Authorized Representative Name:	Josh White

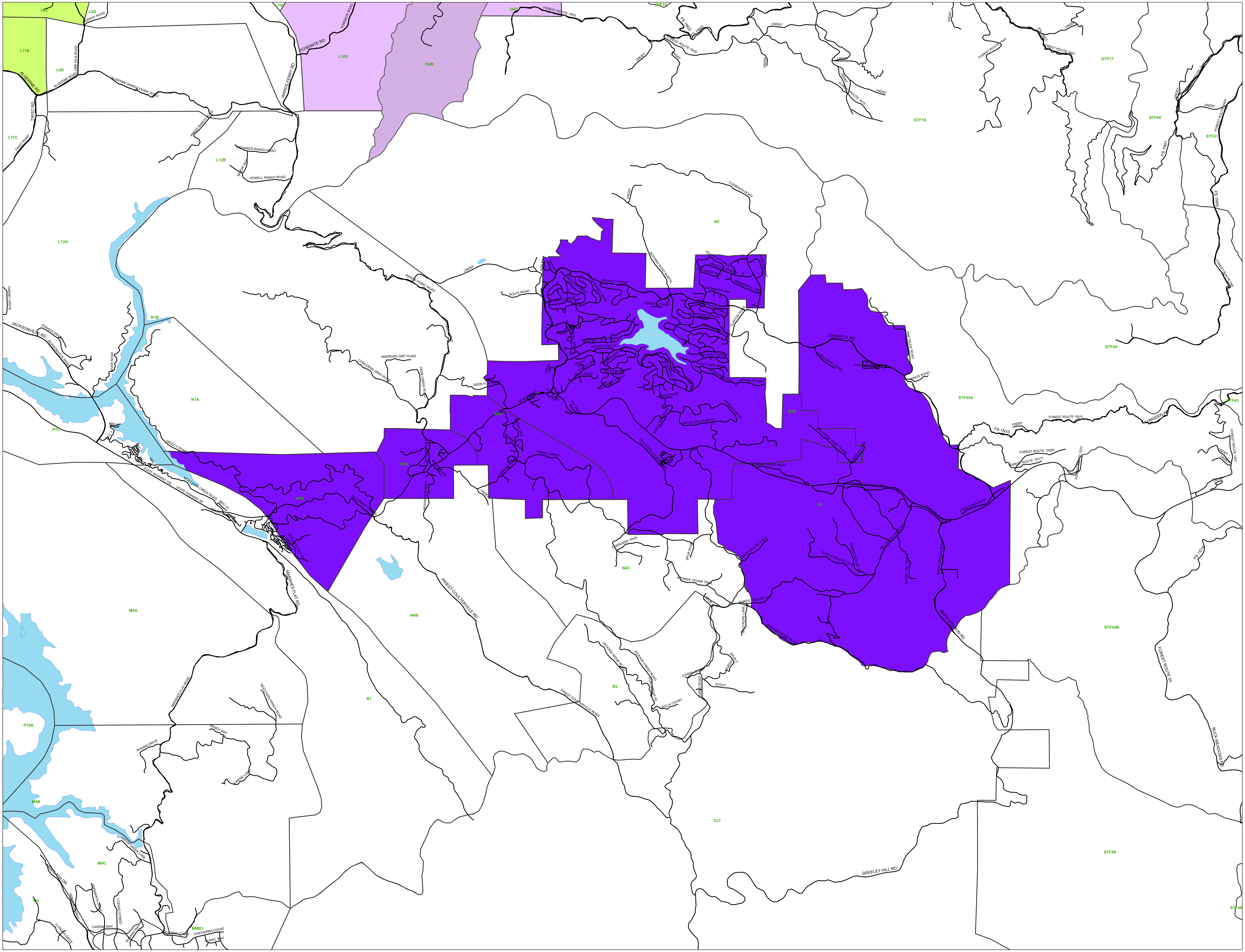
Party:	**Twain Harte CSD**
Address:	22933 Twain Harte Drive
City:	Twain Harte
State:	CA
Zip:	95383
Phone:	209-586-4800
Fax:	209-586-4808
Email:	tmcneal@twainhartecsd.com
Authorized Representative Name	Todd McNeal
Party:	**CDCR Sierra Conservation Center**
Address:	5100 O'Byrnes Ferry Rd
City:	Jamestown
State:	CA
Zip:	95327
Phone:	209-984-5291, Ext.5324
Fax:	209-984-1142
Email:	scott.long@cdcr.ca.gov
Authorized Representative Name:	Scott Long

Party:	**Jamestown FPD**
Address:	18249 4th Ave.
City:	Jamestown
State:	CA
Zip:	95327
Phone:	209-533-5100
Fax:	209-533-5103
Email:	Josh.White@fire.ca.gov
Authorized Representative Name:	Josh White
Party:	**Mi-Wuk Sugar Pine FPD**
Address:	24247 Highway 108
City:	Mi-Wuk Village
State:	CA
Zip:	95346
Phone:	209-586-5256
Fax:	209-586-0265
Email:	lcrabtree@mwspfire.com
Authorized Representative Name:	Larry Crabtree
Party:	**Tuolumne Fire District**
Address:	18690 Main Street
City:	Tuolumne
State:	CA
Zip:	95379
Phone:	209-928-4505
Fax:	209-928-9723
Email:	ohlernick@gmail.com
Authorized Representative Name:	Nick Ohler

Party:	**Columbia FPD**
Address:	11328 Jackson Street
City:	Columbia
State:	CA
Zip:	95310
Phone:	209-532-3772
Fax:	209-532-0788
Email:	C740ferriera@gmail.com
Authorized Representative Name:	Mark Ferreira
Party:	**Strawberry Fire Protection District**
Address:	28217 Tanager Lane (PO Box 1185)
City:	Pinecrest
State:	CA
Zip:	95364
Phone:	209-965-3513
Fax:	209-586-4808
Email:	tmcneal@twainhartecsd.com
Authorized Representative Name:	Todd McNeal

- Shared by Rancheria/Twain Harte/MiWuk Fire
- Shared by Twain Harte Fire/MiWuk Fire
- Shared by Tuolumne City/Rancheria/Twain Harte
- Shared by Tuolumne City/Rancheria
- Shared by Sonora City/Columbia Fire
- Response Areas
- Columbia Response Areas 2017
- Mi Wuk Fire Response Areas 2017
- Sierra Center Response Areas 2017
- Sonora City Response Areas 2017
- Strawberry Fire District 2017
- Tuolumne City Response Areas 2017
- Tuolumne Rancheria Response Areas 2017
- Twain Harte Response Areas 2017

Tuolumne County Response Areas



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N4B
N4C
N5
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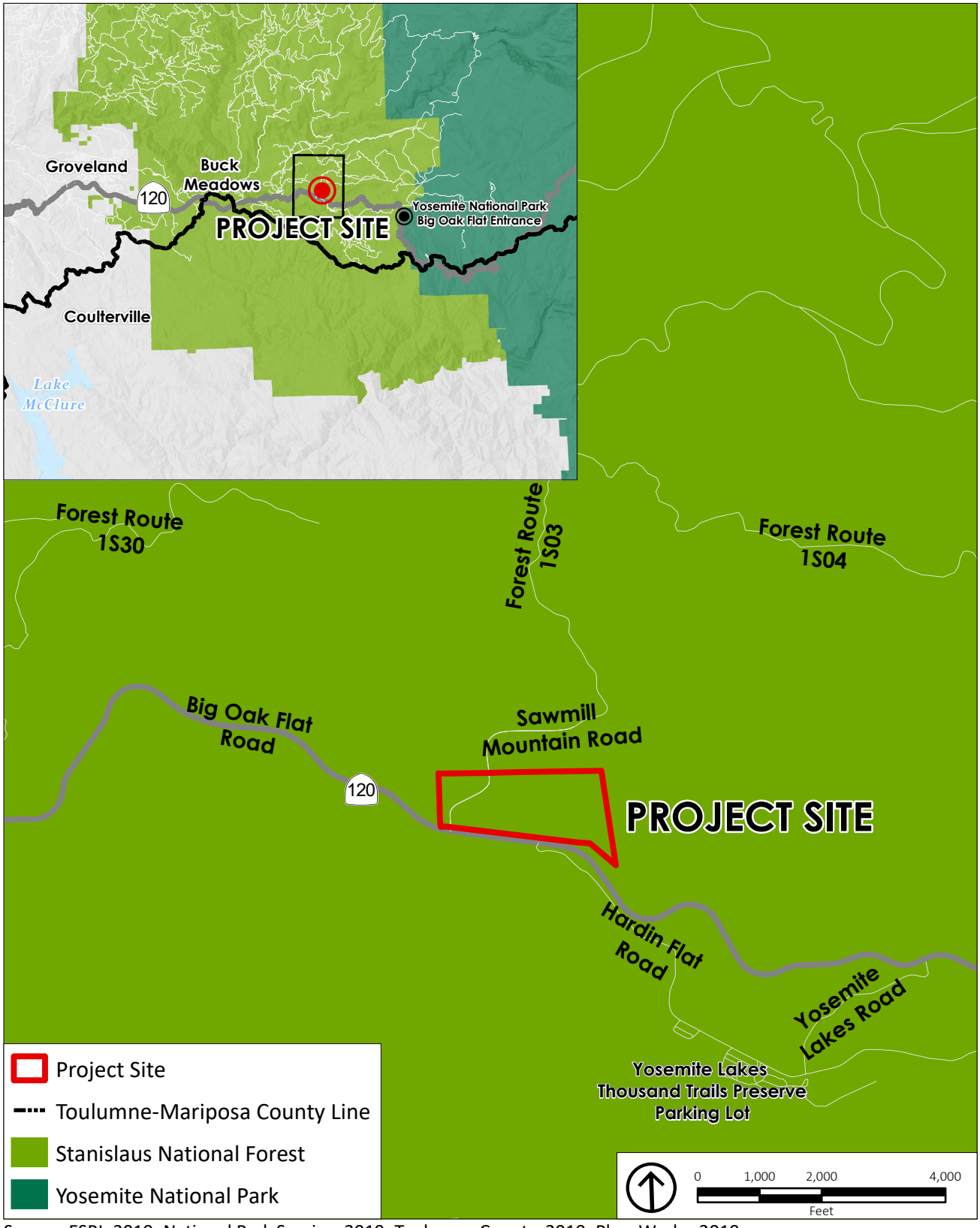
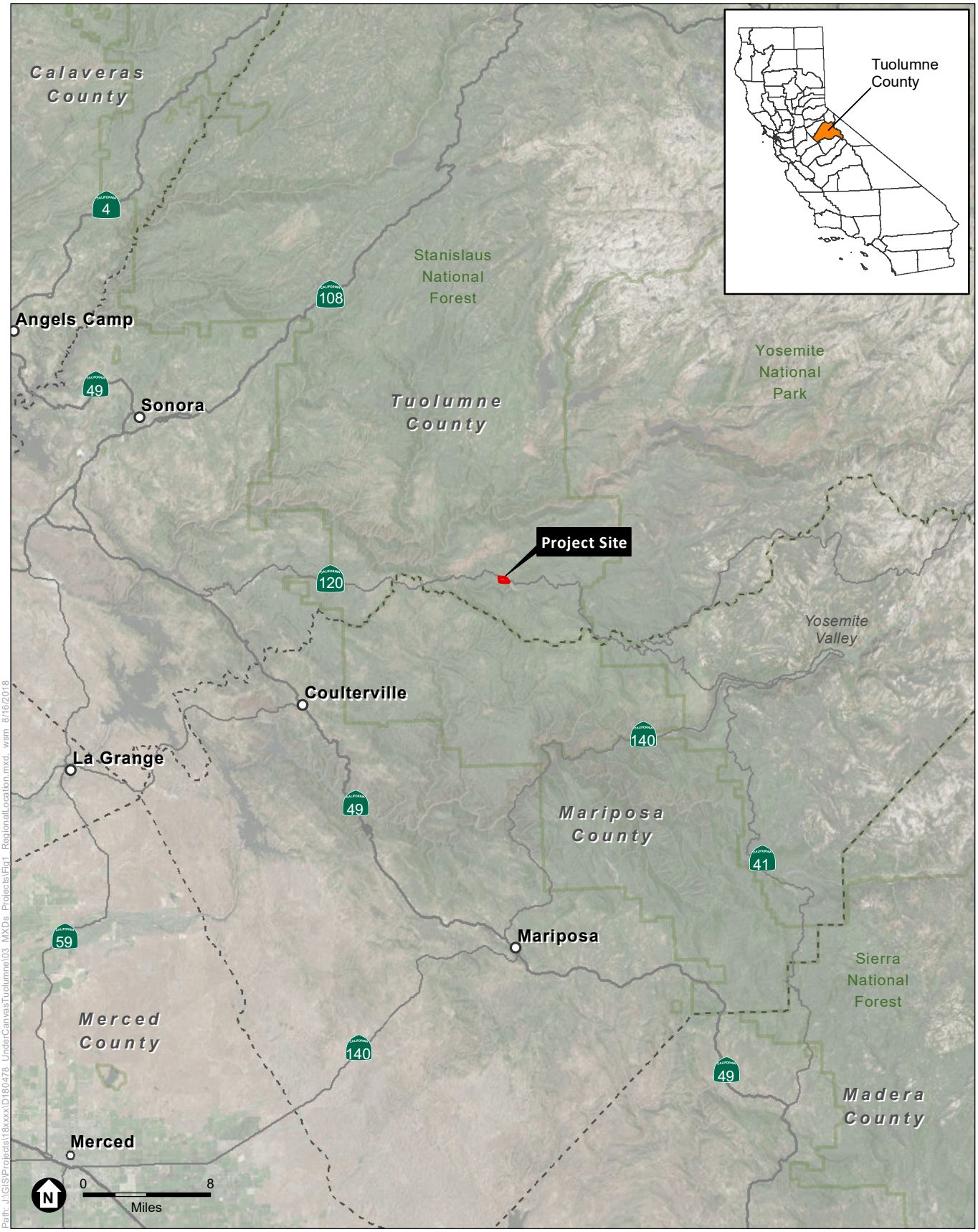
M4C
P10A
MMB1
R1
R2
CLT
STF17
STF18
STF40
STF41
STF43
STF44
STF45A
STF45B
STF48
STF49
TWIST RD
ALGERINE RD
YOSEMITE RD
WARDS FERRY RD
RICHARDS RANCH ROAD
POWELL RANCH ROAD
CLEMENTS ROAD
ROLFE ROAD
ANDREWS DIRT ROAD
JACKSONVILLE RD
FERRETTI RD
FERRETTI ROAD
FOREST ROUTE 1N10
FS 1N10
PRIEST-COULTERVILLE RD
PRIEST COULTERVILLE ROAD
SMITH STATION RD
FOREST ROUTE 20
GREELEY HILL RD



Source: ESRI, 2019; National Park Service, 2019; Toulumne County, 2019; PlaceWorks, 2019.

Figure 3-1
Regional and Vicinity Map



SOURCE: Esri, 2015; ESA, 2018

Yosemite Under Canvas Project

Figure 2-1
Regional Location

ESA